INTERNATIONAL COURT OF JUSTICE

PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

CASE CONCERNING SOVEREIGNTY OVER PULAU LIGITAN AND PULAU SIPADAN

(INDONESIA/MALAYSIA)

VOLUME IV

Memorial of Malaysia

COUR INTERNATIONALE DE JUSTICE

MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRE RELATIVE À LA SOUVERAINETÉ SUR PULAU LIGITAN ET PULAU SIPADAN

(INDONÉSIE/MALAISIE)

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This case, entered on the Court's General List on 2 November 1998 under number 102, was the subject of Judgments delivered on 23 October 2001 (*Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Application for Permission to Intervene, Judgment, I.C.J. Reports 2001*, p. 575) and 17 December 2002 (*Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Judgment, I.C.J. Reports 2002*, p. 625).

The documents relating to the case are being published in the following order:

Volume I. Special Agreement; Memorial of Indonesia.
Volume II. Memorial of Indonesia *(continuation)*.
Volume III. Memorial of Indonesia (Affidavits and Maps).
Volume IV. Memorial of Malaysia.
Volume V. Memorial of Malaysia (Maps).
Volume VI. Counter-Memorial of Indonesia.
Volume VII. Counter-Memorial of Malaysia; Reply of Indonesia.
Volume VIII. Reply of Malaysia; Application for Permission to Intervene by the Philippines; Written Observations of Indonesia and Malaysia; Verbatim Records of the Hearings.
Volume IX. Verbatim Records of the Hearings *(continuation)*.

*

For the purposes of this edition, the Court has decided that the written pleadings will be reproduced *in full*; it will therefore also include the documents annexed to those pleadings, which are not made available on the Court's website. The reproduction of all the annexed documents in this edition will enable practitioners to appreciate better the full scope of the arguments developed by the Parties in their written pleadings. As usual, the verbatim records of the public hearings appear after the pleadings; these verbatim records are published here in their final corrected versions, providing a useful supplement to the provisional versions made available on the Court's website.

Since the Court wishes to publish these documents as quickly as possible, it has been decided, where technically feasible, to reproduce the pleadings in the form in which they were submitted by the Parties.

Some documents in this edition have thus been scanned, and there are consequently two types of page numbering for the items included in these volumes: in addition to the normal continuous pagination, the original page numbers of the scanned documents are provided in brackets for reference purposes.

The Hague, 2010.

La présente affaire, inscrite au rôle général de la Cour sous le numéro 102 le 2 novembre 1998, a fait l'objet d'arrêts rendus le 23 octobre 2001 (*Souveraineté sur Pulau Ligitan et Pulau Sipadan (Indonésie/Malaisie), requête à fin d'intervention, arrêt, C.I.J. Recueil 2001*, p. 575) et le 17 décembre 2002 (*Souveraineté sur Pulau Ligitan et Pulau Sipadan (Indonésie/Malaisie), arrêt, C.I.J. Recueil 2002*, p. 625).

Les documents relatifs à cette affaire sont publiés dans l'ordre suivant :

Volume I. Compromis ; mémoire de l'Indonésie.
Volume II. Mémoire de l'Indonésie *(suite)*.
Volume III. Mémoire de l'Indonésie (déclarations sous serment et cartes).
Volume IV. Mémoire de la Malaisie.
Volume V. Mémoire de la Malaisie (cartes).
Volume VI. Contre-mémoire de l'Indonésie.
Volume VII. Contre-mémoire de la Malaisie ; réplique de l'Indonésie.
Volume VIII. Réplique de la Malaisie ; requête à fin d'intervention des Philippines ; observations écrites de l'Indonésie et de la Malaisie ; comptes rendus d'audience.
Volume IX. Comptes rendus d'audience *(suite)*.

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Ainsi, certaines pièces de la présente édition ont été scannées et, de ce fait, les titres courants du présent ouvrage comportent deux genres de folios : outre la pagination continue habituelle, on trouvera, entre crochets, la pagination d'origine des pièces scannées, à laquelle il faudra se reporter en cas de renvoi.

La Haye, 2010.

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MEMORIAL OF MALAYSIA

MÉMOIRE DE LA MALAISIE

CASE CONCERNING SOVEREIGNTY OVER

PULAU LIGITAN AND PULAU SIPADAN

INDONESIA/MALAYSIA

MEMORIAL OF

MALAYSIA

VOLUME 1

2 NOVEMBER 1999

PART ONE

Chapter 1

INTRODUCTION

1.1. This is the Memorial of the Government of Malaysia (hereinafter called "Malaysia") filed pursuant to the Order of the Court made on 10 November 1998.

1.2. The case comes before the Court by virtue of a Special Agreement concluded between Indonesia and Malaysia on 31 May 1997. Instruments of ratification were exchanged on 14 May 1998 and the Special Agreement entered into force on that date.[1] The Special Agreement was registered with the United Nations on 29 July 1998 and was notified to the Registrar of the Court on 2 November 1998.

1.3. The Special Agreement places before the Court a dispute between the Parties relating to sovereignty over two islands, Ligitan and Sipadan, lying a short distance south of the Semporna Peninsula off the north-east coast of the island of Borneo. The question submitted to the Court is as follows:

> "Article 2. Subject of the Litigation
>
> The Court is requested to determine on the basis of the treaties, agreements and any other evidence furnished by the Parties, whether sovereignty over Pulau Ligitan and Pulau Sipadan belongs to Malaysia or to the Republic of Indonesia."

The Parties have agreed in Article 4 that:

> "The principles and rules of international law applicable to the dispute shall be those recognised in the provisions of Article 38 of the Statute of the Court."

---

[1] Annexes, vol. 2, annex MM33.

Chapter 2

THE CORE OF MALAYSIA'S CASE AND THE SCHEME OF THE PRESENT MEMORIAL

A. Overview of the Dispute and the Positions of the Parties

2.1. The present case involves sovereignty over two small islands, Ligitan and Sipadan within the State of Sabah, a constituent part of Malaysia. The two islands are, and for many years have been, in the possession and subject to the administration of Malaysia and of its predecessors in title. Those predecessors in title were, from 1878, the British North Borneo Company (hereinafter "the Company"), which in 1889 came under the protection of Great Britain (hereinafter "Britain") and then Britain itself, after it had changed the status of North Borneo from a protectorate to a colony in 1946. (In the period from 1889-1946, the territory now known as Sabah was officially referred to as the State of North Borneo.)

2.2. The reason for this long and uninterrupted possession and administration of the islands, to the exclusion of Indonesia and its predecessors, is not far to seek. The fact is that a series of agreements, made with States which at one time or another had interests in the area, establish and confirm Malaysia's sovereignty over the islands. In particular, Malaysia can show that, in addition to possessing and administering the islands in the locality appurtenant to the east coast of North Borneo, it has acquired sovereignty over them, as a result of the following series of transactions:

In 1878: A grant to North Borneo by the Sultan of Sulu of certain territory and islands, on the basis of which North Borneo administered Ligitan and Sipadan;

In 1885: The relinquishment by Spain, in its capacity as sovereign of the Sultanate of Sulu, through a treaty with Britain, of any claim to the territory of North Borneo and adjacent islands;

In 1907: Agreement by the United States (after it had acquired sovereignty over the Spanish territories, including Sulu) to North Borneo's continued administration of certain islands not covered by the 1878 grant, including Ligitan and Sipadan;

In 1930: Cession by the United States to Britain of the islands administered by North Borneo under the Agreement of 1907.

These transactions were open and public at the time.[1] The evidence shows that the Netherlands accepted that the islands concerned were part of the dominions of Sulu in the period before 1878, and that it did nothing thereafter to challenge the transactions between Spain and Britain, and later between the United States and Britain, in relation to the islands.

2.3. This being so, Malaysia's sovereignty over the islands is clearly established. But in any event, even if — hypothetically — those transactions had never occurred, the *fact* of long and peaceful possession and administration dating from as long ago as 1878 and unchallenged by any opposing conduct of Indonesia or its predecessor in title, the Netherlands, must be decisive. That fact, even if it stood alone, would be a quite sufficient basis for upholding Malaysia's sovereignty over the islands as against Indonesia.[2]

2.4. The present dispute arose in 1969 when, in the course of discussions between Malaysia and Indonesia over their respective maritime boundaries off the east coast of Borneo, Indonesia for the first time asserted a claim to Ligitan and Sipadan. As a result, the Parties were only able to agree on a partial maritime delimitation, not covering the waters to the east of Borneo.[3]

2.5. The present Indonesian claim was never advanced by the Netherlands itself. As thus far made known to Malaysia, it is based on Indonesia's interpretation of the language of Article IV of the Boundary Treaty of 20 June 1891 between the Netherlands and Britain (hereinafter "the 1891 Boundary Treaty").[4] That Treaty had the express purpose of delimiting the land boundary between North Borneo (which is now the Malaysian State of Sabah) and the Dutch territories on Borneo (which is now the Indonesian territory of Kalimantan). Indonesia argues that, in addition to its expressed purpose of delimiting the land boundary, Article IV of the 1891 Treaty also allocated to the Netherlands two North Borneo islands, located more than 40 nautical miles away from the nearest Dutch possessions. These islands, Ligitan and Sipadan, are the subject of this dispute.

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[1] For details of these transactions see below, Chapter 5.

[2] For details of these acts of administration see below, Chapter 6.

[3] For the Agreement of 27 October 1969, see Annexes, vol. 2, Annex MM 32. See further below, paragraph 4.4.

[4] See Annexes, vol. 2, Annex MM 17.

2.6. The land boundary delimited by the 1891 Treaty can be seen from the Sketch Map, **Insert 1** on page 8, which also shows the location of the offshore islands adjacent to the coast of the Dutch territory on Borneo (Sebatik, Nunukan, Tarakan, etc.). Ligitan and Sipadan are located considerably further to the east, adjacent to the coast of North Borneo. The same features also appear in the first official Dutch map of the area published after the 1891 Boundary Treaty. That map was published by the Netherlands Indies Topographical Office in Batavia in 1913,[5] and part of it, in reduced form, appears as **Insert 2** on page 9.

2.7. Article I of the 1891 Treaty prescribed that the boundary "shall start from 4° 10' north latitude on the east coast of Borneo" and proceed in a westerly direction along a described course. However, because an island, Sebatik, lies off the coast of Borneo just east of the starting point of the boundary on the mainland, Article IV of the Treaty provided as follows:

> "From 4° 10' north latitude on the east coast the boundary-line shall be continued eastward along that parallel, across the island of Sebittik: that portion of the island situated to the north of that parallel shall belong unreservedly to the British North Borneo Company, and the portion south of that parallel to the Netherlands."

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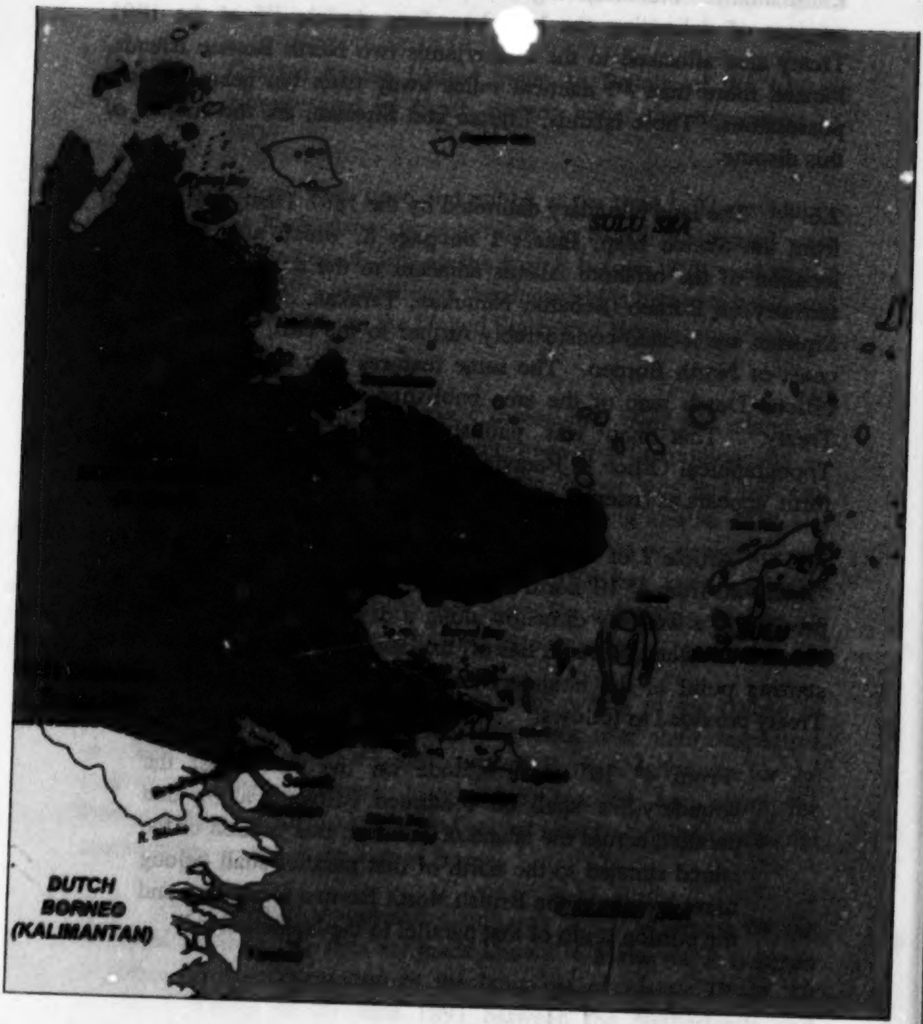
[5] See Annexes, vol. 5, Map 1.

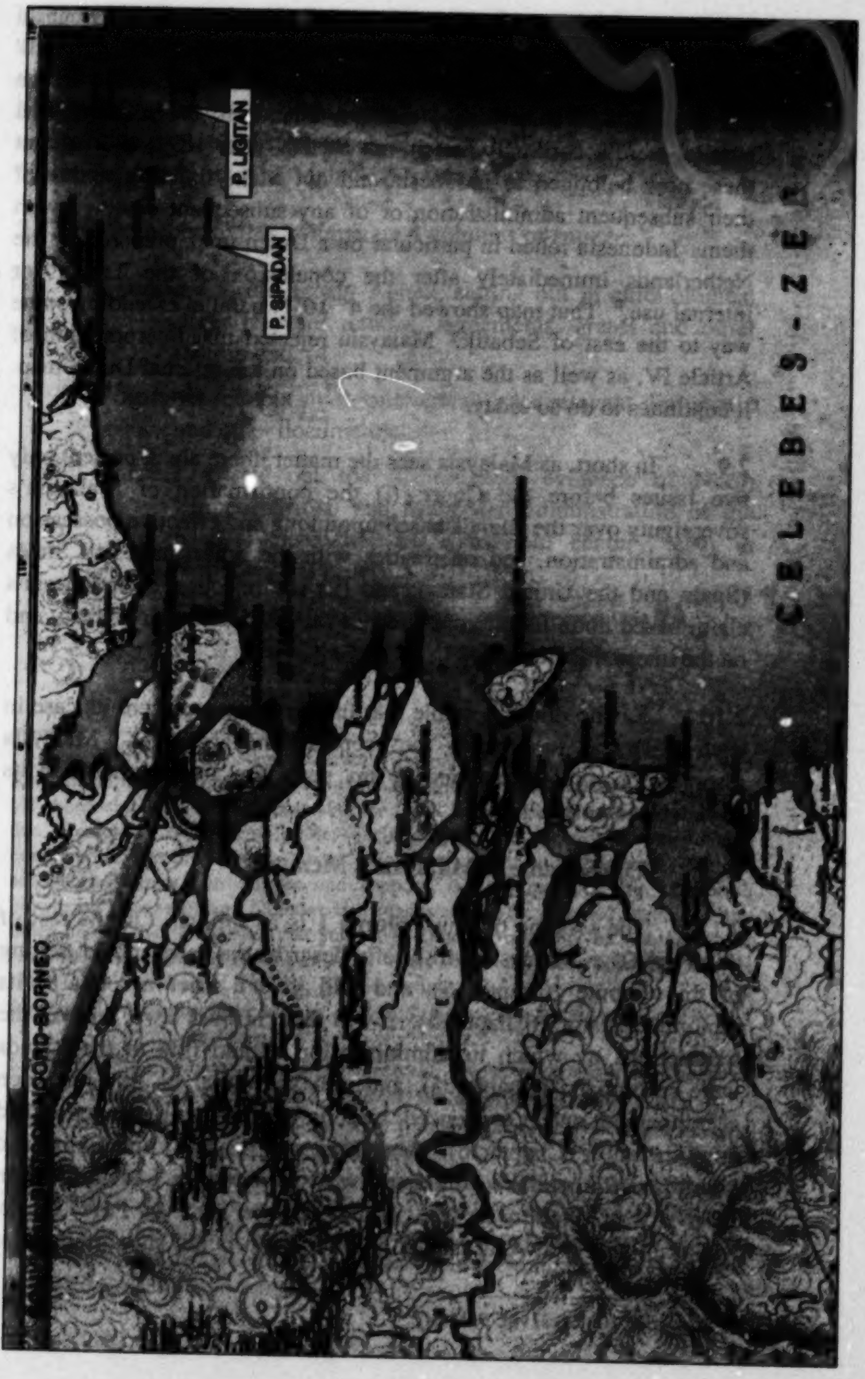
Insert 1

Location of Certain Islands relevant to the Dispute


SULU SEA
R. Simbo
DUTCH
BORNEO
(KALIMANTAN)

Insert 2

Dutch Map of 1913 showing the Effect of the 1891 Boundary Treaty (extract)


P. LIGITAN
P. SIPADAN
CELEBES-ZEE
NOORD-BORNEO

2.8. In the course of diplomatic discussions since 1969, Indonesia made the following arguments: (a) that the boundary along the 4° 10' N parallel drawn by Article IV should be extended into and over the sea eastwards of Sebatik; (b) that any islands to the south of that parallel were accordingly Dutch, not British, after 1891; and (c) that these now belonged to Indonesia and not Malaysia, irrespective of their subsequent administration or of any subsequent dealings with them. Indonesia relied in particular on a Dutch map, prepared by the Netherlands immediately after the conclusion of the Treaty for internal use.[6] That map showed the 4° 10' N parallel extending some way to the east of Sebatik. Malaysia rejected that interpretation of Article IV, as well as the argument based on the internal Dutch map. It continues to do so today.

2.9. In short, as Malaysia sees the matter, there are at present only two issues before the Court: (i) the confirmation of Malaysia's sovereignty over the islands based upon long and effective possession and administration, and on treaties with the other interested States (Spain and the United States); and (ii) the rejection of Indonesia's claim based upon its interpretation of the 1891 Boundary Treaty and on the internal Dutch map.

2.10. It is no doubt possible that Indonesia may present its case in such a way as to broaden the scope of the argument. Malaysia reserves the right to respond to any such new developments in its Counter-Memorial.

B. The Scheme of Malaysia's Memorial

2.11. The scheme of this **Volume 1** is as follows. In the rest of this **Part One**, Malaysia will briefly describe the geographical setting of this dispute (Chapter 3), and will give a brief account of its diplomatic history (Chapter 4). It will then, in **Part Two**, analyze the transactions by which its administration of and title to the islands were recognized (Chapter 5), and will show that its title has been accompanied, and is evidenced, by long and peaceful possession and administration (Chapter 6). That long and peaceful possession and administration will be contrasted with Netherlands and Indonesian inactivity in relation to the Islands (Chapter 7). In **Part Three**, Malaysia will show that the Indonesian claim is not supported either by the 1891 Treaty itself (Chapter 8), or by the subsequent processes of ratification and implementation of the Treaty and demarcation of the boundary it established (Chapter 9). Finally, in **Part Four**, Malaysia will review the map evidence, and will show that taken as a whole it too strongly supports Malaysia's title (Chapter 10). The Memorial concludes with Malaysia's submissions.

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[6] See Annexes, vol. 5, Map 2.

2.12. Attached to this volume are 4 volumes of annexes:

Volume 2 is the Treaty Annex, setting out in chronological order relevant treaties, agreements, grants and other instruments.

Volume 3 sets out in chronological order relevant diplomatic and other documents.

Volume 4 sets out the documentary evidence of North Borneo, British and Malaysian administration of the islands since the late nineteenth century, also in chronological order.[7]

Volume 5 is the Map Annex, reproducing relevant maps.

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[7] There exists substantial literature dealing with the relations of Borneo and Sulu in the nineteenth century, the administration of North Borneo (including the off-shore islands) after 1878, and with the Dutch administration of Kalimantan. In this Memorial, Malaysia will refer exclusively to the primary documents and contemporary records and journals. However the story told in these various secondary sources corroborates and supports the argument of this Memorial. Nowhere in the secondary literature is it suggested that the disputed islands, or any other part of North Borneo, was subject to Dutch sovereignty or was under the control of the Sultan of Bulungan (from whom the Dutch Government derived its claim to the east coast of Borneo). See, in particular:

Belcher, E, *Narrative of the Voyage of HMS Samarang during the years 1843-46* (2 vols, London, 1848);

Black, Ian, *A Gambling Style of Government: The Establishment of Chartered Company's Rule in Sabah, 1878-1915* (Kuala Lumpur: OUP, 1983);

Black, Ian, *Native Administration by the British North Borneo Chartered Company, 1878-1915* (Ph.D. thesis, ANU, 1970).

Hunt, J, "Some Particulars Relating to Sulo, in the Archipelago Felicia", in Moor, JH (ed), *Notices of the Indian Archipelago and Adjacent Countries* (London: Cass, 1968) (first published 1837), Appendix, pp.31-60;

Irwin, G, *Nineteenth-Century Borneo. A Study in Diplomatic Rivalry* (The Hague, Martinus Nijhoff, 1955);

Majul, CA, "Political and Historical Notes on the Old Sulu Sultanate" (1965) 38 *J Malaysian Branch Royal Asiatic Society* 23-42;

Martin, H, *De Engelschen en de Nederlanders in den Indischen Archipel met terugzigt op eene besproken vestiging der Belgen op Borneo* (Amsterdam, G. Theod. Bom, 1866);

Maxwell, WG & Gibson, WS, *Treaties and Engagements affecting the Malay States and Borneo* (London, 1924);

Paulus, J (ed.), *Encyclopaedia van Nederlands-Indië* ('s-Gravenhage/Leiden: Nijhoff/Brill, 2nd. ed., 1917);

Pryer, WB, "Notes on Northeastern Borneo and the Sulu Islands" (1883) 5 *RGS Procs* 91;

Pryer, WB, "On the Natives of British North Borneo" (1887) 16 *J Royal Anthrop Inst* 229-36;

Resink, GJ, *Indonesia's History between the Myths. Essays in Legal History and Historical Theory* (The Hague, Van Hoeve, 1968);

Reynolds, John Keith, *Towards an Account of Sulu and its Borneo Dependencies 1700-1878* (MA Thesis, University of Wisconsin, 1970).

Rutter, O, *British North Borneo: an account of its history, resources and native tribes* (London, 1922);

Saleeby, NM, *The History of Sulu* (Manila, 1908, reprinted 1963);

Sather, C, "Sulu's Political Jurisdiction over the Bajau Laut" (1971) 3 (2) *Borneo Research Bulletin* 58-62.

Sather, Clifford, *The Bajau Laut. Adaptation, History and Fate in a Maritime Fishing Society of South-eastern Sabah* (Oxford University Press, Kuala Lumpur, 1997);

Tarling, Nicholas, *Sulu and Sabah. A Study of British policy towards the Philippines and North Borneo from the late eighteenth century* (Oxford University Press, Kuala Lumpur, 1978);

Tregonning, KG, *Under Chartered Company Rule: North Borneo, 1881-1946* (Singapore: University of Malaya Press, 1958);

von Dewall, H, "Aanteekingen Omtrent de Noordoostkust van Borneo" in (1855) 4 *Tijdschrift voor Indische Taal-, Land- en Volkenkunde* 423-458;

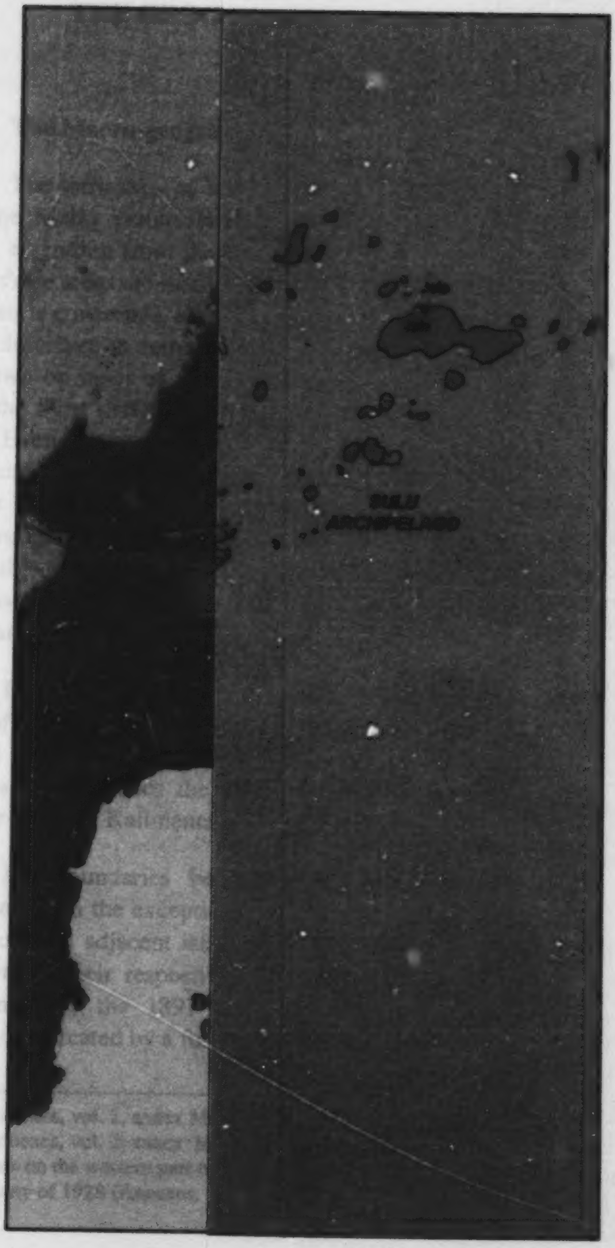
Warren, James F, *The North Borneo Chartered Company's Administration of the Bajau, 1878-1909. The Pacification of a Maritime, Nomadic People* (Athens: Ohio University Centre for International Studies, Papers in International Studies, Southeast Asia Series No. 22, 1971);

Warren, JF, "The Sulu Zone: Commerce and the Evolution of a Multi-ethnic Polity, 1768-1898" (1979) 18 *Archipel* 133-68;

Warren, JF, *The Sulu Zone, 1768-1898* (Singapore: Singapore University Press, 1981);

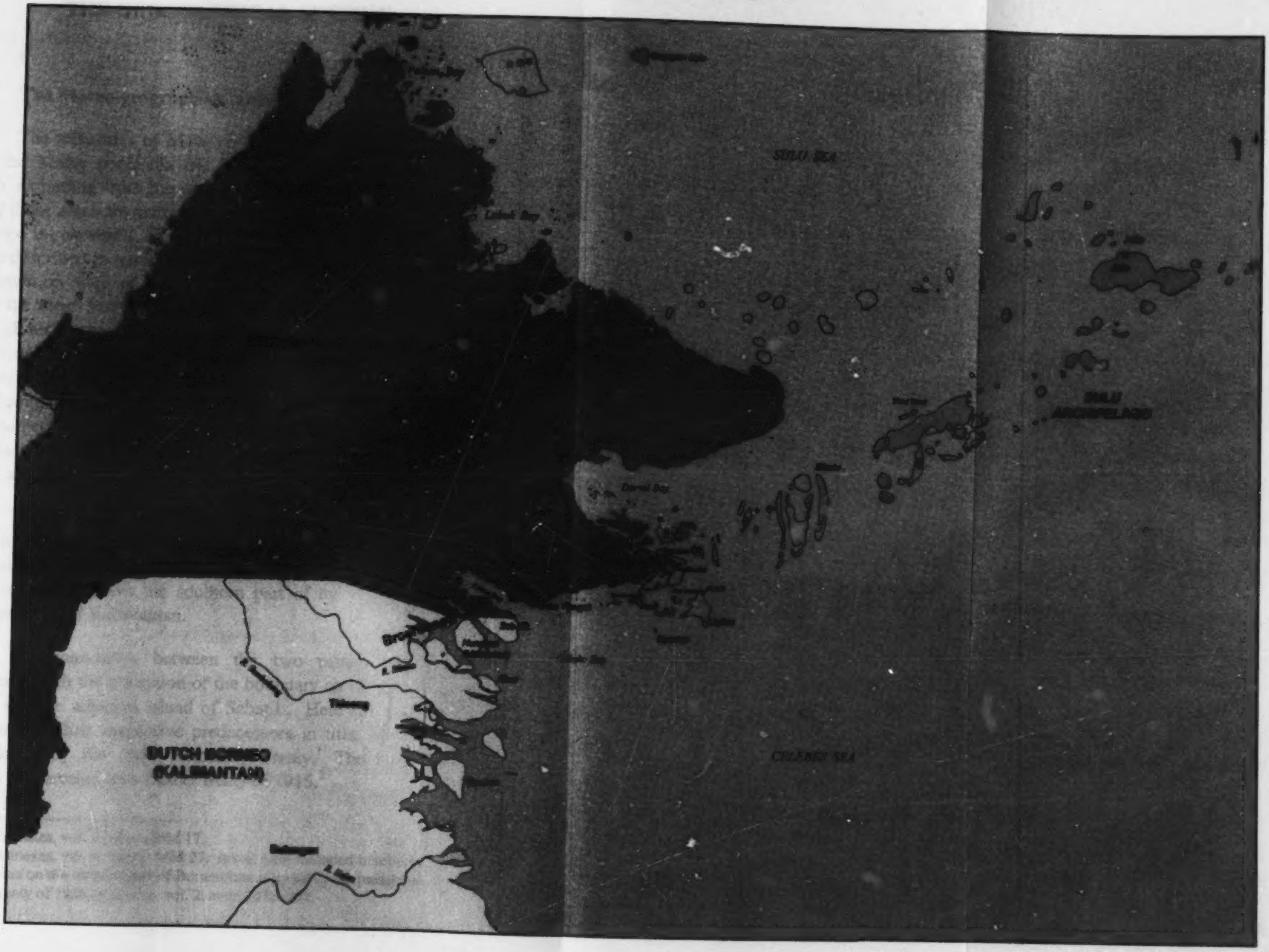
Willi, J, *The Early Relations of England with Borneo to 1805* (Berne, Langensalza, 1922);

Wright, LR, *The Origins of British Borneo* (Hong Kong University Press, Hong Kong, 1970, reprinted 1988).


SULU
ARCHIPELAGO

Insert 3

Borneo Coast, Sulu Archipelago, etc


SULU SEA
Labuk Bay
Darvel Bay
SULU ARCHIPELAGO
CELEBES SEA
DUTCH BORNEO
(KALIMANTAN)
Tidoeng

Chapter 3

THE GEOGRAPHICAL SETTING

A. The Macro-geographical Setting

3.1. The territories of Malaysia fall into two main geographical areas: the Malay peninsula and the northern part of the island of Borneo, extending from the west to the east coast. Associated with each of those areas are many offshore islands. So far as the east coast of Borneo is concerned, all these islands are well known, have names and are described in authoritative sailing guides and pilots. They are also shown on maps of the 18th and 19th century, with names which are for the most part the same as or similar to the names they have today. Even those islands which were not permanently inhabited were visited by fishermen and others and their resources harvested (whether in the form of forest products, coconuts, shellfish or turtle eggs) throughout the period for which records exist. They have long been subject to administrative control by Malaysia and its predecessors in title. There can be no suggestion that any one of them is, or at any relevant time was, *terra nullius*.

3.2. Indonesia is an archipelago consisting of thousands of islands of varying sizes of which the principal ones are Java, Sumatra, Sulawesi (the Celebes), Maluku (the Moluccas) and Irian Jaya. Indonesia also includes the southern part of the island of Borneo, under the name of Kalimantan.

3.3. All boundaries between the two parties are maritime boundaries, with the exception of the boundary on the main island of Borneo and the adjacent island of Sebatik. Here the boundary was laid down by their respective predecessors in title, Britain and the Netherlands, by the 1891 Boundary Treaty.[1] The boundary was formally demarcated by a further treaty of 1915.[2]

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[1] Annexes, vol. 2, annex MM 17.

[2] Annexes, vol. 2, annex MM 27. It was later amended in relation to an area on the western part of Borneo (not relevant to the present case) by a treaty of 1928 (Annexes, vol. 2, annex MM 28).

3.4. To the north and east of the large island of Borneo are many small islands stretching in the direction of the Philippines across the Sulu Sea and the Celebes Sea. A particular feature of the region to the east is the chain of islands still known as the Sulu Archipelago. Its main town of Jolo was, from the eighteenth until the early twentieth century, the seat of the Sultan of Sulu who held sway over these islands and many others in the surrounding seas, up to and including the north-east coast of Borneo itself.

B. The Micro-geographical Setting

3.5. The north-east coast of Borneo consists of a series of bays and indentations interspersed with peninsulas, with associated offshore islands.[3] These bays and indentations include, from the north, Teluk Paitan (known as Paitan Bay in the British period), Teluk Labuk (Labuk Bay), Sandakan Harbour, Teluk Lahad Datu (Darvel Bay), and, south of the Semporna Peninsula, Sibuko Bay, a large bay formerly known as St. Lucia Bay. Within Sibuko Bay and north of the island of Sebatik is Teluk Tawau (Cowie Bay). The north shoreline of Cowie Bay is the site of Tawau (Tawao), the local administrative centre and, slightly to the east of it, Batu Tinagat. Sailing east from the island of Sebatik itself, there is nothing but open sea with some shoals until, 30 n.m. away, is encountered Terumbu Ligitan (Ligitan Reefs). Sipadan and Ligitan are respectively 8.2 n.m. and 19.5 n.m. further to the south-east of Terumbu Ligitan.

3.6. These various features, islands and places are shown on the sketch map which is **Insert 3**, opposite page 9. Identified on that map are a number of locations to which reference will be made in this Memorial: these include Lahad Datu, Semporna, Danawan and Si Amil, Ligitan itself, Omadal and Sipadan.

3.7. In the nineteenth and twentieth century, the islands and reefs along the north-east coast of Borneo have been inhabited and used by the Bajaus, otherwise known as Bajau Laut or Sea Gypsies. They lived mostly in boats, or in settlements of stilt houses above water, and indeed many still do. There is a large settlement in Trusan Treacher, near Semporna, the result of the resettlement efforts of the Company after 1906 (described in Chapter 6). The Bajaus have their own language (Sama or Samal). Their occupation at times relevant to the present case was mostly fishing and the collection of forest products. They were a key part of the "procurement system" operated from Sulu until the 1880s, whereby goods such as edible birds nests, trepang (bêche-de-mer), rattan etc. were collected by them and traded through the port of Jolo, especially with China. The role of Jolo was largely taken over by the trading centre of Semporna after its establishment by the Company in 1887. The local leaders, who were often Sulu, were appointed by the Sultan of Sulu, and given such titles as Panglima, Datu, Temengong, etc. The Company assumed that prerogative after 1878 and confirmed in office or subsequently appointed a number of local leaders who had previously held office under the Sultan. The names of some of the indigenous leaders are contained in a table, taken from J.F. Warren, *The North Borneo Chartered Company's Administration of the Bajau, 1878-1909. The Pacification of a Maritime, Nomadic People*, which is reproduced in Annexes, vol. 4, annex MM 90.[4] The area around Semporna inhabited by the Bajaus and administered by the Company is shown by Warren in the map reproduced as **Insert 4** on page 18.

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[3] In this Memorial, Pulau Ligitan and Pulau Sipadan will be referred to simply as Ligitan and Sipadan. The word *Pulau* (abbreviation: P.) is Malay for island.

3.8. In 1903 the *British North Borneo Herald* published an interesting account of the Bajau cemetery on Omadal, referring also to the Bajau settlements at Silam, Danawan, and Semporna.[5] As will be seen in Chapter 6, Bajaus from Danawan have long held the license to collect turtle eggs on Sipadan, granted initially by the Sultan of Sulu and subsequently recognized by North Borneo.

(i) Ligitan

3.9. Ligitan is the southern extremity of an extensive star-shaped reef that extends southward from Danawan and Si Amil Islands,

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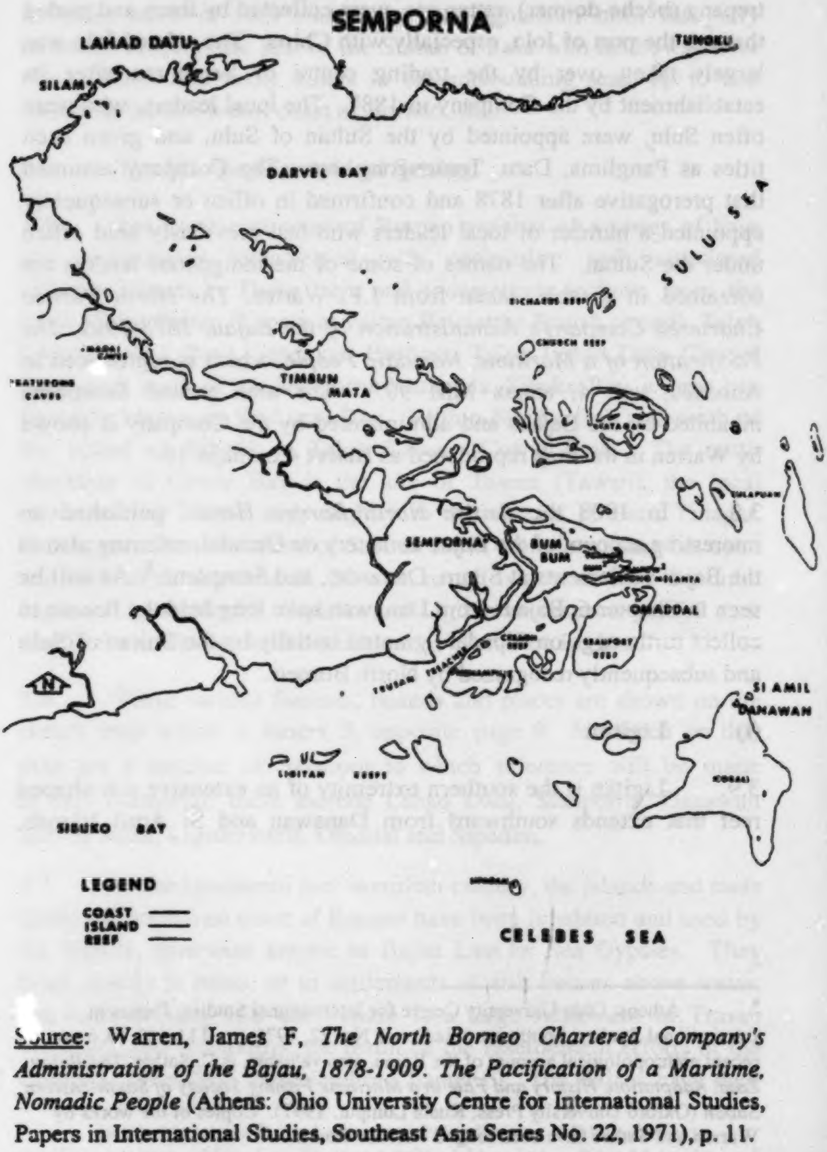
[4] Athens: Ohio University Centre for International Studies, Papers in International Studies, Southeast Asia Series No. 22, 1971, pp. 111-112. A more recent anthropological account of the Bajau, also valuable, is C. Sather, *The Bajau Laut. Adaptation, History and Fate in a Maritime Fishing Society of South-eastern Sabah* (Oxford University Press, Kuala Lumpur, 1997). Copies of the works by Warren and Sather have been lodged with the Court.

[5] See Annexes, vol. 4, annex MM 88. For a photograph of the cemetery see page 26.

Insert 4

Map of the Semporna District


SEMPORNA
LAHAD DATU
TUNGKU
SILAM
DARVEL BAY
SULU SEA
RICHARDS REEF
CHURCH REEF
MADAI CAVES
BATURONG CAVES
TIMBUN MATA
SEMPORNA
BUM BUM
OMADDAL
BEAUFORT REEF
SI AMIL
DANAWAN
LIGITAN REEFS
SIBUKO BAY
N
LEGEND
COAST
ISLAND
REEF
CELEBES SEA

Source: Warren, James F, *The North Borneo Chartered Company's Administration of the Bajau, 1878-1909. The Pacification of a Maritime, Nomadic People* (Athens: Ohio University Centre for International Studies, Papers in International Studies, Southeast Asia Series No. 22, 1971), p. 11.

which are respectively 8.6 n.m. and 8.9 n.m. north of Ligitan. The islands which form part of the reef structure are often referred to on charts as the Ligitan Group: the Bajaus living on Danawan and Si Amil made use of the whole reef area for fishing, and of Ligitan itself for drying fish and other purposes. Ligitan lies about 21.5 n.m. south east of the nearest point on the coast (the foothill of Hood Hill), and about 15.5 n.m. east of Sipadan. Most of the reef is submerged, though it shows dry patches in irregular shapes of between 0.3 and 1.2m in height. In 1903 the island was described in a United States naval report as follows:

> "This island is inaccessible to all except small boats owing to its distance from the edge of the reef on which it stands. It is uninhabited and covered with scrub bush and a few trees of no value."[6]

At the northern tip of the reef, Danawan lies approximately 15.5 n.m. southeast of the Semporna peninsula. Nearby, about 0.5 n.m. to the north-east of Danawan, there is a separate island, Si Amil, on which there is a lighthouse operated by Malaysia. There is also a lighthouse operated by Malaysia on Ligitan itself: its coordinates are 4° 09' 48" N, 118° 53' 04" E.

3.10. Ligitan is covered in rocks, wild grass and trees called bilang-bilang. It is not permanently inhabited, but until very recently there were a number of huts on stilts which were intermittently occupied. The island is often used to dry fish. Ligitan's name originates in the fact that in Bajau "Ligit" means thorns; thus the words "Pulau Ligitan" mean "island of thorns".

3.11. A satellite image of Ligitan, showing its relation to the star-shaped reef and to Sipadan, is shown as **Insert 5 on page 20.**

(ii) Sipadan

3.12. The island of Sipadan lies at lat. 4° 06' 39" N and long. 118° 37' 56" E. It is 14.8 n.m. from the nearest point on the coast (Tanjung Tutop) and 42.0 n.m. to the east of the island of Sebatik. The general direction of the closest mainland coast line in Sibuko Bay is eastwards along the Semporna peninsula, terminating at Pantau at the

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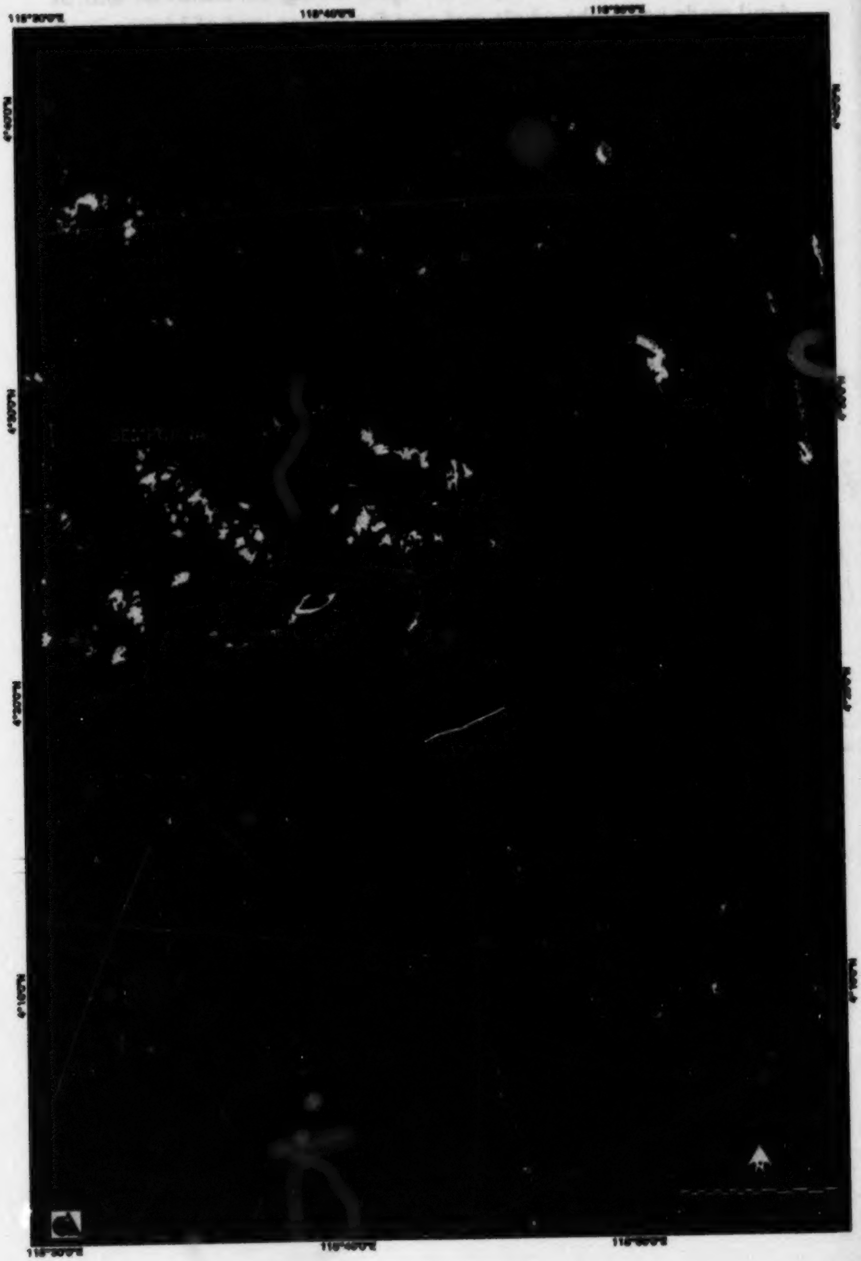
[6] See Annexes, vol. 3, annex MM 63.

Insert 5

ISLANDS AROUND SEMPORNA, SABAH, MALAYSIA


118°30'0"E
118°40'0"E
118°50'0"E
4°40'0"N
4°30'0"N
4°20'0"N
4°10'0"N

eastern end of Bum Bum Island. Sipadan is 42.0 n.m. from the island of Sebatik; the nearest Indonesian island (Pulau Ahus) is 51.2 n.m. away. Sipadan is neither geographically, ethnographically nor economically associated with any part of Indonesia.

3.13. The following entry appears in the seventh edition of the *Eastern Archipelago Pilot* (1963):

> "Sipadan island (Lat. 4° 07' N, Long. 118° 38' E), 7½ miles southward of Mabul island, is wooded, and 165 feet (50m^3) high to the tops of the trees; it lies on the north-western side of a reef which is steep–to. Turtle frequent the island in considerable numbers. A light is exhibited, at an elevation of 80 feet (24 m.), from a white metal framework tower 72 feet (21 m.) in height near the southern extremity of Sipadan island."[7]

3.14. The name "Sipadan" apparently derived from the fact that a body of one "Paran" was found on the shore of the island. The prefix "Si" means "Mr" and so the island came to be called "Siparan" and, in due course, "Sipadan".[8] In the description by Hunt given in 1837, the author refers to the coast of the Bay of Giong (later renamed Darvel Bay) and states that the island of "*Pulo Giya*, off this coast, abounds with deer, & *Separan* with abundance of green turtle".[9]

3.15. In a United States naval report of 1903 Sipadan was described as follows:

> "This island is densely wooded with tall timber and is the resort of many turtles. There is no water and it is, in consequence, uninhabited. It may be approached from the Northwest but there is no anchorage."[10]

3.16. Sipadan is the oval-shaped peak of a seamount which rises abruptly from a depth of about 600m. It has a low profile and a sandy beach. The whole structure may be likened to a mushroom of which the stem stands on the seabed and the cap protrudes only a few metres above the surface. The outer edge of the cap is only about 30 metres from the low water line.

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[7] *Eastern Archipelago Pilot*, vol. I, 7th ed., (1963) p. 189. The term "steep-to" refers to the fact that the island drops steeply into deep water from the narrow fringing reef.

[8] See the deposition of Haji Tilaran Abdul Majid, the son of Panglima Abu Sari, 23 January 1975: Annexes, vol. 4, annex MM 117, para. (11).

[9] Annexes, vol. 3, annex MM 34.

[10] Annexes, vol. 3, annex MM 63; and see below, paragraph 5.28.

3.17. Sipadan was originally covered with thick jungle until the time Panglima Abu Sari planted some coconut trees and some maize.[11] A well was dug on the island by Panglima Johan and Panglima Nujum to provide fresh water on the occasions that they spent nights on the island to collect turtle eggs. They also built a semi-permanent wooden hut.[12]

3.18. Sipadan is part of the administrative district of Semporna in Malaysia: earlier it was part of the district of Lahad Datu.[13] Neither the Netherlands nor Indonesia has ever exercised any authority over it. The situation is fully set out in Chapter 6 below.

3.19. Because of its unusual structure and unspoiled coral, Sipadan is a very popular tourist centre, especially for scuba divers.[14] This diving activity led to the development on the island of a number of diving establishments and chalets. At its height there were 191 regular residents on the island (none of whom were Indonesian); the number has now been substantially reduced in order to protect the island from over-exploitation. The chalets and diving companies are registered with the Registrar of Companies, Domestic Trade and Consumer Affairs Ministry, Sabah, with the exception of Pulau Bajau Resort which is registered with the Semporna District Council. About 100 visitors are present on the island on any given day. Over the past 15 years, 115,053 tourists, mostly foreign, have visited the island.

3.20. The nearest inhabited island is Mabul, some 8 n.m. to the north of Sipadan. About 90 people work at the hotel complex called Sipadan Water Village which was built in 1994. In addition there is

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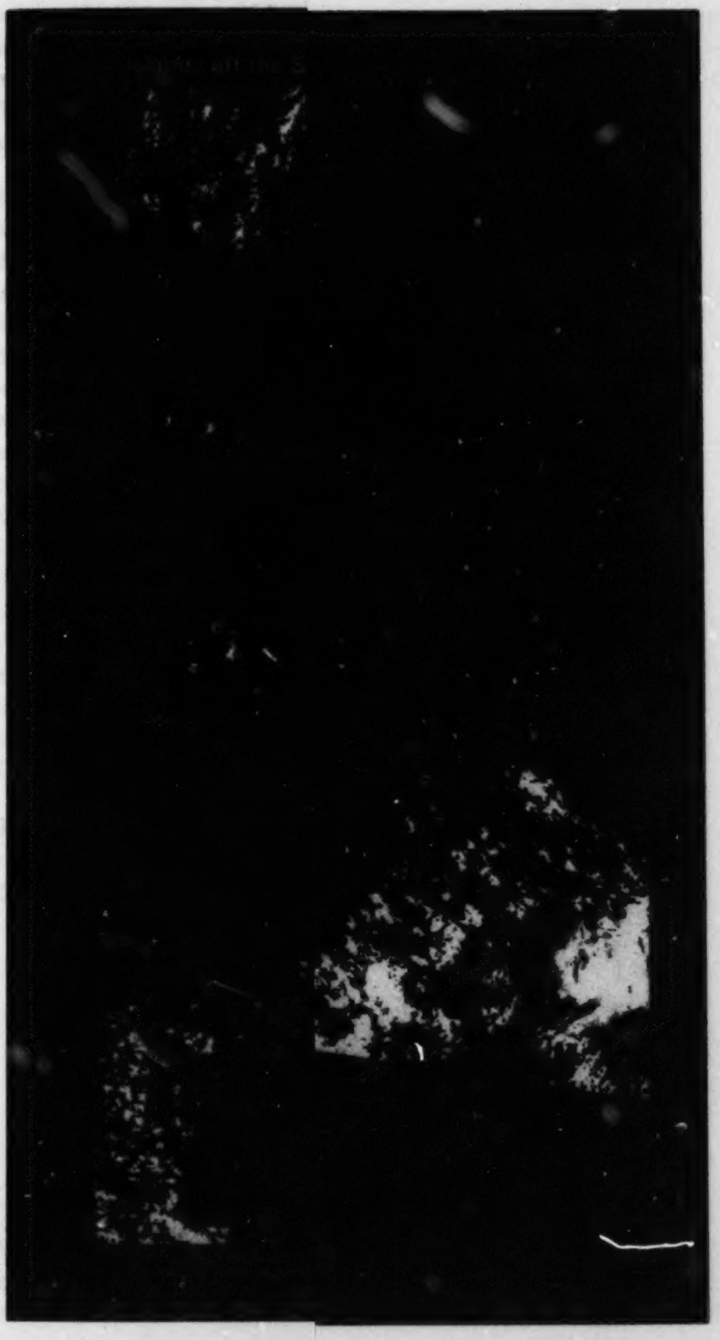
[11] See the deposition of Haji Tilaran Abdul Majid, 23 January 1975: Annexes, vol. 4, annex MM 117, para. (12).

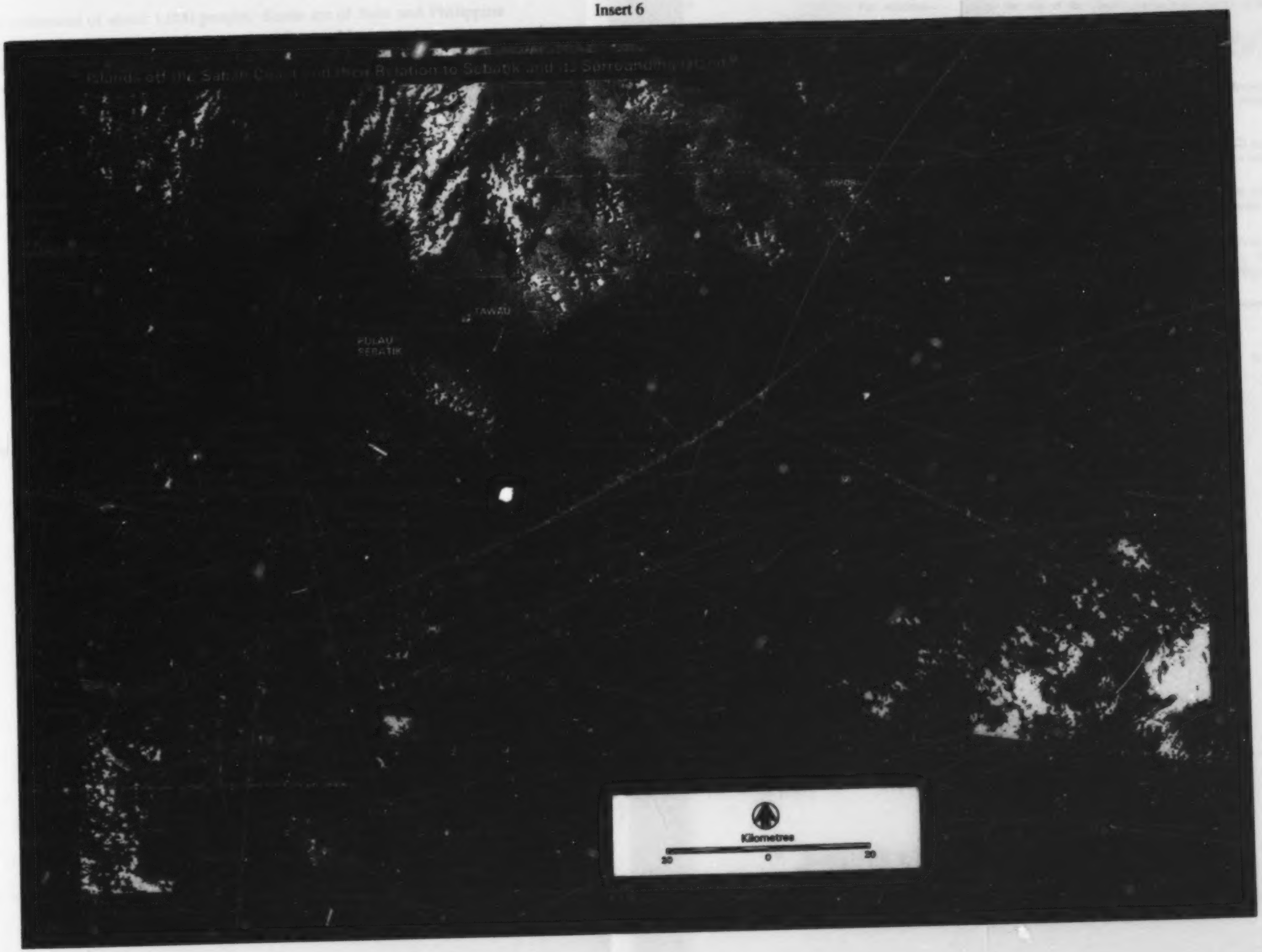
[12] See the deposition of Panglima Nujum, 24 January 1975: Annexes, vol. 4, annex MM 118 para. (9). For the eventual fate of the hut see the Sabah High Court judgment of 28 April 1995: Annexes, vol. 4, annex MM 122.

[13] See Administrative Divisions Proclamation 1982, General Notification of Sabah No. 7 of 1982: Annexes, vol. 4, annex MM 121.

[14] For a photographic guide to Sipadan and its marine life, see MP Wong, *Sipadan. Borneo's Underwater Paradise* (Odyssey Publishing, Singapore, 1991). Copies of this book have been deposited with the Court.



Insert 6


Islands off the Sabah Coast and their Relation to Sebatik and its Surroundings
TAWAU
PULAU
SEBATIK
Kilometres
20
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20

a settlement of about 1,000 people. Some are of Sulu and Philippine origin who are now resident on the island. Many of them live in structures built on poles. There are about 40 sea Bajaus, who live mainly in boats moored within a few metres of the shore and live by fishing. A selection of photographs of these various features follows at the end of this Chapter.

3.21. Sipadan is part of a group of small islands comprising Mabul, Omadal, Kapalai, Danawan, Si Amil, Ligitan and Sipadan. In the first edition of the *Eastern Archipelago Pilot*, published in 1890, it is described as "the southernmost of the group", immediately following a description of Si Amil, Danawan and Ligitan and before the brief mention of Mabul.[15] The geographical closeness of these islands has led to constant movement between them all. The extent to which these islands were closely interconnected in the subsistence economy of those who lived there (principally fishing and turtle egg collection) is vividly shown in the affidavits attached as Annexes, vol. 4, annexes MM 116 - MM 120. Thus Haji Tilaran in his affidavit of 23 January 1975 referred to the fact that his father, Panglima Abu Sari, was made Chief of Pulau Danawan by the Sultan of Sulu and that the islands under his control and jurisdiction were Ligitan, Si Amil, Kapalai and Sipadan.[16] Panglima Abu Sari was responsible for controlling the collection of turtle eggs on Sipadan and for control of the fisheries in the waters around the islands. Further details of turtle collection and associated activities on Pulau Sipadan are set out in Chapter 6.

3.22. The location of Ligitan and Sipadan, and their relation to the other places mentioned here, can be seen from the satellite image of the region, which is **Insert 6** on page 23.

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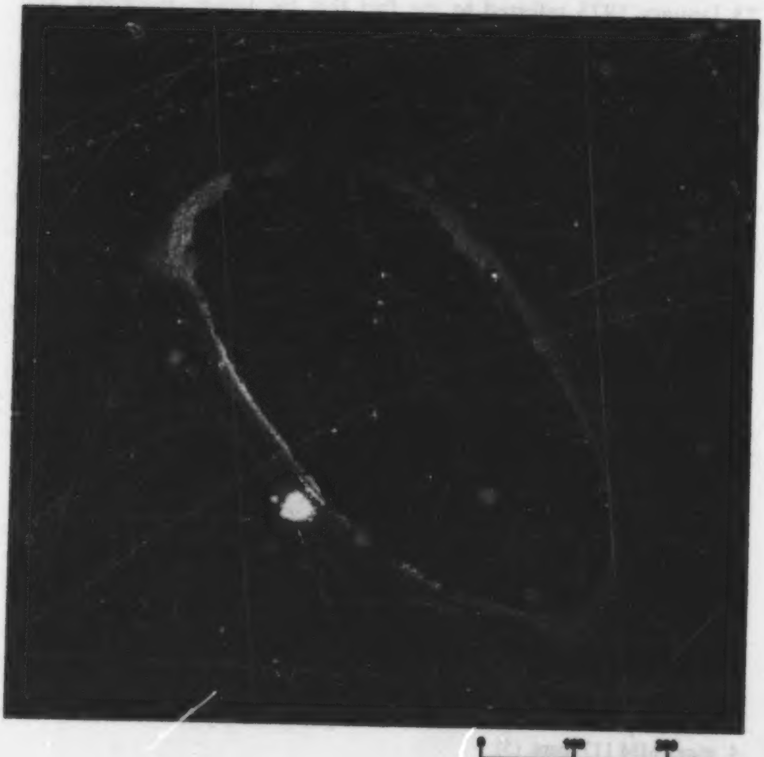
[15] JP Maclear (comp.), *Eastern Archipelago, Part I (Eastern Part)* (Hydrographic Office of the Admiralty, London, 1890) p. 188.

[16] Deposition of Haji Tilaran Abdul Majid, 23 January 1975: Annexes, vol. 4, annex MM 117, para. (5).

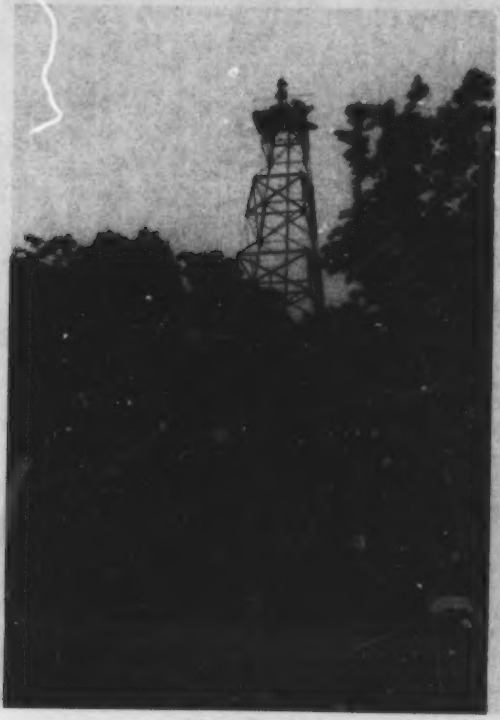
Pulau Sipadan

0
km
(approximately)


0
metres
(approximately)

Pulau Sipadan

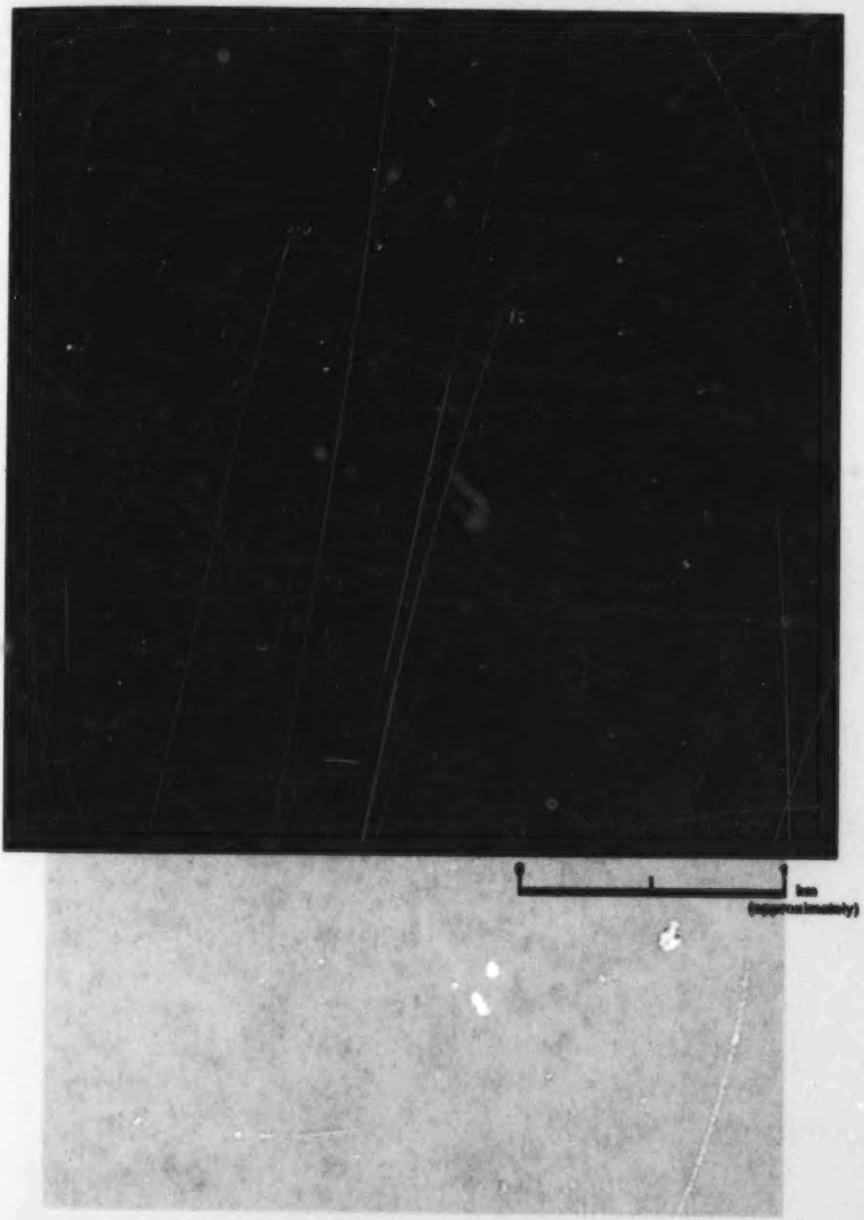
Diving Chalets



Light Tower

Pulau Ligitan, Danawan and Si Amil

Pulau Ligitan

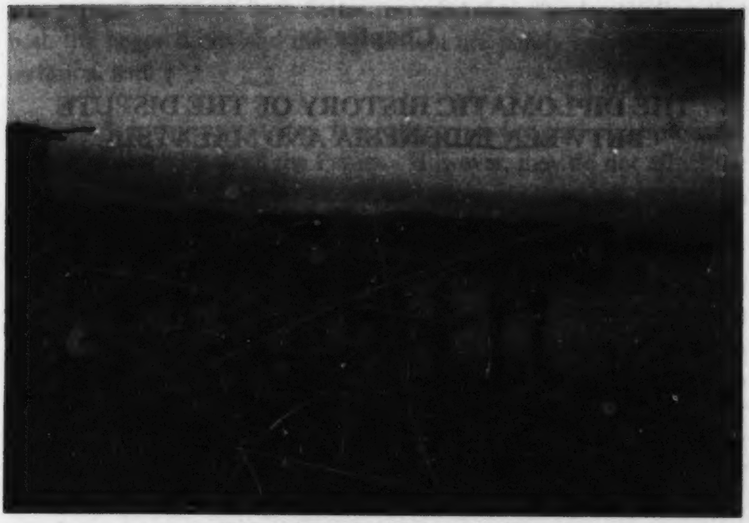

km
(approximately)

Pulau Ligitan

Light Tower

Fishing Huts

Omadal Island



Bajau Settlement

Bajau Cemetery

Chapter 4

THE DIPLOMATIC HISTORY OF THE DISPUTE BETWEEN INDONESIA AND MALAYSIA

4.1. Many territorial and boundary disputes have a long history of diplomatic negotiations before being referred to judicial or arbitral settlement. By contrast the diplomatic background to the Special Agreement of 1997 is relatively brief.

4.2. As will be seen in more detail in Chapter 5, the islands of Ligitan and Sipadan have during the last two centuries been under the sovereignty, first, of the Sultan of Sulu, then of Spain, then of the United States, then of Great Britain and now of Malaysia. From 1878 onwards, the only polity to exercise actual jurisdiction or control over the two islands was North Borneo and its successors in title. At no time during that period was any adverse claim made to the now-disputed islands by Indonesia or its predecessor in title, the Netherlands or the Sultan of Bulungan. No public governmental act or act of sovereignty was carried out on or in relation to the islands by the Netherlands or Indonesia. No native ruler on the east coast of Borneo, other than the Sultan of Sulu, ever laid claim to Ligitan or Sipadan as part of his possessions.

4.3. Until 1969, therefore, the effective possession and administration of the islands by Britain and then by Malaysia had remained unquestioned by Indonesia and its predecessor in title, the Netherlands. Only when the parties commenced negotiations in 1969 for the purpose of delimiting their respective areas of continental shelf did Indonesia for the first time advance a claim to the islands.

4.4. Following those negotiations, a delimitation agreement was concluded on 27 October 1969. It entered into force on 7 November 1969. But by reason of the disagreement that then arose over the two islands, the maritime area it covered did not extend to the area lying to the east of Borneo.[1] An exchange of notes took place on 22

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[1] See Annexes, vol. 2, annex MM 32.

September 1969, after the Agreement had been initialled but before it was signed, in which both States recorded their "understanding that both the negotiations and the Agreement are purely and wholly of a technical nature".[2]

4.5. Subsequently there have been exchanges of diplomatic correspondence between the Parties. However, they do not affect the legal issues now before the Court, and Malaysia does not propose to burden the Court with a mere recitation of their content.

4.6. In October 1991, the two Parties agreed to establish a Joint Working Group on the position of the islands. This Group held several meetings in the period 1992-1994, exchanging written memoranda and documentation. However, no agreement was reached, and eventually the matter was referred to special envoys of the two sides. In June 1996, they made a joint recommendation that the question should be placed before the International Court of Justice.[3] The Special Agreement was concluded on 31 May 1997.

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[2] See Annexes, vol. 3, annex MM 74.

[3] See the Joint Report of Discussions dated 21 June 1996: Annexes, vol. 3, annex MM 75.

PART TWO

Chapter 5

INTERNATIONAL ACTS ESTABLISHING MALAYSIA'S SOVEREIGNTY OVER THE ISLANDS

A. Introduction

5.1. As outlined in Chapter 2, Malaysia's sovereignty over Ligitan and Sipadan is based on two independent but also intersecting strands. First, title to the islands was acquired by grant of the previous sovereign, a situation which was recognized by and was opposable to all relevant States in the region as a result of published treaties. Secondly, following from the 1878 grant to Baron von Overbeck, the islands have been peacefully and continuously administered by Malaysia's predecessors in title, and by Malaysia. That administration was never contested by the Netherlands or (until 1969) by Indonesia, and it continues to the present day. Each of these strands is by itself sufficient to uphold Malaysia's position as against Indonesia. Taken together they are decisive of this case.

5.2. This Chapter deals with the first of the strands identified in the previous paragraph. Chapter 6 will deal with the second. The sequence of events described in detail in this Chapter is presented in summary form on the following page.

B. The Dependencies of the Sultanate of Sulu on the East Coast of Borneo

5.3. In the 18th and throughout the 19th century until 1878, the coastal territory of north-east Borneo and its adjacent islands was a dependency of the Sultanate of Sulu, and something needs to be said accordingly about this Sultanate. The Sultanate was a substantial maritime power, exercising authority over a considerable number of islands lying between mainland Borneo and the Philippines, as well as over the Sulu Archipelago itself. In fact a great deal of the Sultan's revenue came from the region of north-eastern Borneo under

Chronology of Main Steps in the Acquisition of North Borneo and Offshore Islands (including Ligitan and Sipadan)

Date	*Instrument or Action*	*Annex*
29 December 1877	Grants by Sultan of Brunei to Dent and Overbeck of Territories on north west and north east coast of Borneo, to Sibuko River, with certain islands	vol. 2, Annexes MM 6 – 8
22 January 1878	Grant by Sultan of Sulu to Dent and Overbeck of Territories on north west and north east coast of Borneo, to Sibuko River, with certain islands	vol. 2, Annexes MM 9 & MM 10
1 November 1881	Charter of British North Borneo Company	vol. 2, Annex MM 14
7 March 1885	Protocol, Article III: Spain & Germany recognize British administration of territories in 1878 Grant	vol. 2, Annex MM 15
12 May 1888	British Protectorate proclaimed over North Borneo	vol. 2, Annex MM 16
20 June 1891	Great Britain–Netherlands, Convention defining the boundaries in Borneo	vol. 2, Annex MM 17
10 December 1898- 7 November 1900	United States acquisition of the Philippines (including Sulu Archipelago)	vol. 2, Annexes MM 19 & 21
22 April 1903	Sultan of Sulu–British North Borneo Co., Confirmation of Cession of Certain Islands	vol. 2, Annex MM 22
3 & 10 July 1907	Great Britain–United States, Exchange of Notes concerning the Administration and Lease of Certain Small Islands on the North Borneo Coast by the British North Borneo Company	vol. 2, Annex MM 23 & MM 24
28 September 1915	Great Britain–Netherlands, Agreement approving Joint Report of Commissioners pursuant to Article 3 of the 1891 Convention (demarcating the 1891 boundary)	vol. 2, Annex MM 27
2 January 1930	United Kingdom–United States, Boundary Convention recognizes offshore islands as part of North Borneo	vol. 2, Annex MM 29
26 June 1946	British North Borneo Protectorate becomes a British colony	vol. 2, Annex MM 30
16 September 1963	Malaysia Agreement of 9 July 1963 comes into force incorporating North Borneo (Sabah) in Malaysia	vol. 2, Annex MM 31

the procurement system, being traded through Sulu with China, Singapore and elsewhere. Under the procurement system, trading in a whole range of commodities (birds' nests, trepang, etc.) occurred via Sulu, and local people made frequent visits there for this and other purposes.

5.4. The position was described in some detail by James Hunt in "Some Particulars relating to Sulo, in the Archipelago of Felicia", first published in 1837. His account reads in part as follows (modern place names are underlined in brackets):

> "The province of Mangidora forms the north eastern part of Borneo, extending itself towards the Sulo Archipelago in a long narrow point named Unsang, or cape Misfortune [Tanjung Unsang]. The whole of this district yields very valuable articles for commerce and in considerable quantities, birds' nests, black and white in great abundance, camphor, elephants, cattle, dammer, wax, lackawood, rattans, and great quantities of the purest gold in lumps and dust of a very soft pliable texture like wax, &c...
> Giong river is situated on the north-west part of the bay of that name [Darvel Bay]; here are considerable quantities of blackish birds nests procurable. *Pulo Giya* [P. Gaya], off this coast, abounds with deer, & *Separan* [Sipadan] with abundance of green turtle. There is also a species of birds' nests like driven snow found on Pulo Giya and much tripang is collected about the bay..."[1]

After referring to the Sulu port of Sabahan, Hunt goes on to describe points further south, including Tidong (where there was in 1837 "a small fort with seven or eight large guns under Sulo"). Then, in "the last province on Borneo belonging to Sulo", which was named the province of Tirun, he mentions the Sibuko river, followed by other rivers along the coast before arriving at Bulungan. The key places mentioned here are shown in **Insert 7**, on the following page.

5.5. The dependencies of the Sultanate of Sulu from Marudu Bay in the north down to below the Sibuko River were acknowledged in the

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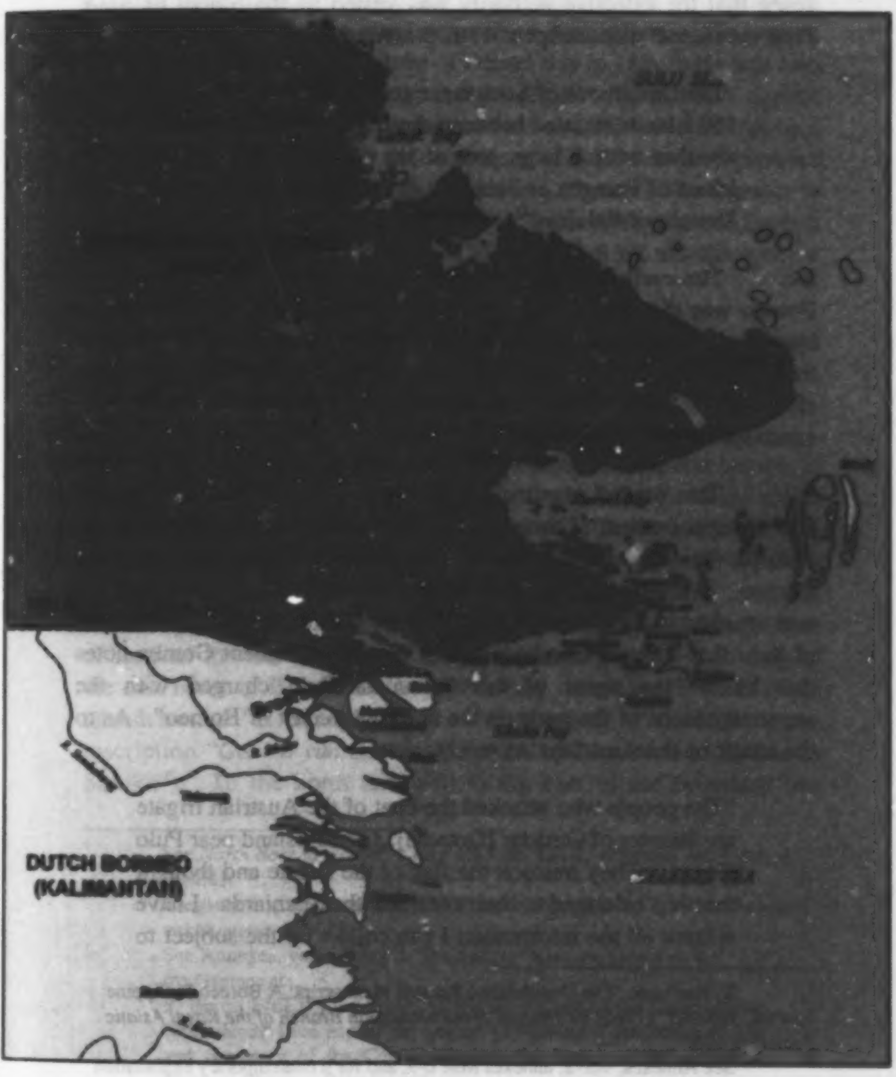
[1] Annexes, vol. 3, annex MM 34.

Insert 7

North-East Coast of Borneo


SULU SEA
Labuk Bay
Darvel Bay
Sibuko Bay
DUTCH BORNEO
(KALIMANTAN)

19th century, as this account shows. The origins of Sulu authority were said to go back to a grant of the Sultan of Brunei, given to Sulu in the early 18th century in return for their assistance in a civil conflict. Brunei subsequently denied the existence of any such grant, but there is no doubt that the effective authority was vested in the Sultan of Sulu. Thus the Rennel manuscript of 1762-3 notes that:

> "The Dominions of Sooloo are composed of about 140 or 150 islands situated between the Philippines and Borneo; together with a large part of the Coast of Borneo; the Island of Paragoa or Palawan, & the islands that form the Straight of Balabar."[2]

5.6. The earlier history of Brunei sovereignty over the coasts of Borneo was the reason why Baron von Overbeck in 1877-8 obtained two grants covering exactly the same territory, one from Brunei, one from Sulu.[3] But by the 1870s it was agreed that Brunei exercised no effective authority on the north-east coast and that the Sultan of Sulu exercised control there.

5.7. This control resulted from the allegiance of the local people and the appointment of their local chiefs by the Sultan. For example, Nakoda Gomba was the Sultan's Agent on the north-east coast of Borneo. When in 1875 a party from the Austrian corvette *Friedrich* was attacked in Sibuko Bay while collecting wood, it was to the Sultan of Sulu that Nakoda Gomba reported.[4] In his statement Gomba notes that he is "the agent of the Sultan of Sulu charged with the superintendence of the trade on the north-east coast of Borneo". As to the attack on the Austrians, he reports that:

> "The people who attacked the boat of the Austrian frigate are Bajows of Omadar [Omadal], a small island near Pulo Gaya... They mistook the flag of the frigate and thought the ship belonged to their enemies, the Spaniards. I have written all the information I can collect on the subject to

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[2] T. Harrison, "The Unpublished Rennell Manuscript: A Borneo Philippine Journal, 1762-63" (1966) 39 *Journal of the Malaysian Branch of the Royal Asiatic Society* p. 105.

[3] See Annexes, vol. 2, annexes MM 6-9, and for a contemporary explanation by Acting Consul-General Treacher of this duplication see Annexes, vol. 3, annex MM 35.

[4] See Annexes, vol. 4, annex MM 76. See also the comment by the British Acting Consul at Labuan: Annexes, vol. 4, annex MM 77.

> the Sultan of Sulu, and soon expect to receive his orders. I think he will certainly order the apprehension and execution of two of the Chiefs."

It is significant that Gomba was one of the Sulu officials who continued to hold office when the Company assumed governance of the region, being appointed native magistrate of Darvel Bay in 1882.[5] He was also one of the signatories of a "Protest of Chiefs of Sandakan against Spanish Occupation" signed on the occasion of an abortive attempt by a Spanish frigate to take over the settlement of Sandakan in September 1878, shortly after the Sultan's capitulation to Spain.[6] The signatories state that "the matter of the transfer of this country to an English Company having been referred to us by the Sultan six months ago, we have agreed to that transfer and are bound by it".

5.8. The Sultan of Sulu's authority over north-eastern Borneo was recognized by other States and is evidenced, for example, in the following documents:

(a) In 1870 there was published in Leiden the second edition of a "General Atlas of the Netherlands Indies". Its full title as shown on the title page may be translated as follows: "General Atlas of the Netherlands Indies compiled from official sources and with approval of the Government. Second edition with improved maps". It was edited by Baron Melvill van Carnbée and W.F. Versteeg, both officers of the Government of the Netherlands Indies.[7] The map of the east coast of Borneo shows a boundary running westwards of an island named "P. Sebalik" [*sic*]. To the north of that line is the inscription "*Gebied van Soeloe of Solokh*" ("Dominion of Soeloe or Solokh"). To the north and well to the east of the boundary line depicted on the map are shown certain islands clustered around Darvel Bay, including specifically "P. Siparan" (Sipadan) and "P. Legetan" (Ligitan). The depiction of the islands and coastline here is highly inaccurate, by comparison with the areas further to the south where the Dutch had at that time some measure of control. But it is plain from the map that the islands named and the other territories to the north of the depicted boundary were considered in 1870 as belonging to Sulu, and were not claimed by the Netherlands in right of Bulungan or otherwise.

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[5] See *North Borneo Herald*, 1 July 1886, pp. 121-2: Annexes, vol. 4, annex MM 81.

[6] See Annexes, vol. 4, annex MM 78, and the telegram by Treacher, Annexes, vol. 4, annex MM 79.

[7] See Annexes, vol. 5, Map 3. The authors' titles are shown on the frontispiece as:
P. Baron MELVILL VAN CARNBÉE, Knight of the Order of the Netherlands' Lion and of the Legion of Honour, Commander at Sea and Secretary of the Commission for the Improvement of Indian Nautical Charts at Batavia, and
W.F. VERSTEEG, Knight of the Military Order of William and of the Order of the Netherlands' Lion, Officer of the Order of the Crown of Oak, former Lieutenant-Colonel of the Royal Engineers and Chief of the Topographical Bureau at Batavia.

(b) Following the Sultan of Sulu's 1878 grant to von Overbeck and Dent, questions were raised in the Dutch Parliament on the assertion of Dutch claims to control over Borneo. In reply the Dutch Minister of Colonies said:

> "The north-east and north-west portions of Borneo have never been under our dominion. We have never disputed the authority of Spain over the dependencies of Sulu in the north-east portion of the island…"[8]

(c) This position was expressly reaffirmed in the Explanatory Memorandum to the Dutch Parliament which accompanied the 1891 Boundary Treaty.[9] The two relevant Ministers reported that:

> "the Bajaus who live on the islands located at the North-Eastern coast of Borneo, which belong to the Sultanate of Solok, are still continuously collecting forest products in the disputed area and show no concern whatsoever for the Sultan van Boeloengan. Because of this and also because of the absence of any document establishing the boundary between the Sultanates of Boeloengan and Solok, it was considered very difficult indeed to determine the extent of the area of Boeloengan."

This is a revealing passage showing a number of things relevant to the present case. First, it shows a clear awareness on the part of the Dutch Government that the Sultan of Bulungan (through whom that Government itself claimed) had no control and no claims over "the islands located at the North-Eastern coast of Borneo". Secondly, it recognized that these islands belonged to the sultanate of Solok (Sulu), were inhabited and were not *terra nullius*. Thirdly, it shows that the islands were not "the disputed area" for the purposes of the 1891 Treaty. Rather the area in dispute was exclusively the land area on the East coast "between the Tawao and Siboekoe rivers". Fourthly, it shows that even as to *that* area, the authority of Bulungan was not clearly established.

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[8] Extract from Answer of the Colonial Minister to Inquiries made by the Committee of the Second Chamber in their Preliminary Report on the Netherlands Indian Budget for 1880: Annexes, vol. 3, annex MM 40.

[9] Annexes, vol. 3, annex MM 51.

C. The Grant by the Sultanate of Sulu of 1878 and its Implementation

5.9. For some time before 1878 Spain had been trying to conquer Sulu, but with very limited success. So far as Great Britain was concerned, the position at that time was regulated by a Convention of 1877 between Germany, Britain and Spain.[10] Under the Protocol of 1877, Spain accepted that "[c]ommerce and direct trading by ships and subjects of Great Britain, Germany and other powers... shall be absolutely free with the Sulu Archipelago and in all parts thereof, as well as the right of fishery" (Article I). This was subject to certain rights of regulation by Spain, but these rights were limited to "the places occupied by Spain in the archipelago of Sulu... *while such places are effectively occupied*" (Article III, emphasis added).

5.10. On 22 January 1878, while the struggle between Spain and Sulu was intensifying, the Sultan of Sulu granted to Baron von Overbeck and Mr. Alfred Dent, as representatives of a British company yet to be incorporated...

> "together with their heirs associates successors and representatives for ever all the rights and powers belonging to us over all the territories and lands which are tributary to us on the mainland of the island of Borneo from the Pandasan River on the west extending along all the lands on the east coast as far as the Sibuku River in the south and including all the territories on the coast of the Pandasan River and the coast lands of Paitan, Sugut, Bonggaya, Labuk, Sandakan, Kinabatangan, Mumiang, and all the other territories and coast lands to the southward thereof on the coast of

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[10] Annexes, vol. 2, annex MM 5.

> Darvel Bay as far as the Sibuku River together with all the islands included therein within nine miles of the coast."[11]

The Sibuko River is well south and west of Ligitan and Sipadan.

5.11. On the same day the Sultan signed a commission appointing Baron von Overbeck...

> "Dato' Bendahara and Rajah of Sandakan with the fullest power of life and death over all the inhabitants of these countries and over all matters that were ours ... with the right of making laws ... as he may deem fit and proper with all powers properly exercised by sovereign rulers in general."[12]

The territory over which this authority was to be exercised was defined in the following terms:

> "all the lands towards the eastward on the coast on the Island of Borneo from the Pandasan River including all the territories on the coast of the Sibuku River and the coast lands of Paitan, Sugut, Bonggaya, Labok, Sandakan, Kinabatangan, and Mumiang, and the other lands and coast lands near Darvel Bay as far as the Sibuku River together with all the islands included therein..."[13]

5.12. The approximate extent of the Sultan's grant of 1878, with references to the locations mentioned above, is shown in the sketch map (Insert 8) on page 44. A more detailed map is at Annexes, vol. 5 Map 4.

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[11] See Annexes, vol. 2, annex MM 9.

[12] Annexes, vol. 2, annex MM 10.

[13] The territorial extent of the Sultan's grant of 1878 was also explained in a letter of Acting Consul-General Treacher, written from Sulu on 22 January 1878: Annexes, vol. 3, annex MM 36. Treacher refers to a Sulu claim to the east coast as far south as Balik Pappan, well south of the Sibuko River, and notes that...

> "a compromise was effected and the limits fixed from the Pandasan River to the Sibuco River, the latter limit being, according to a Dutch official chart, in the Baron's possession, the northern limit of Dutch territory on that coast, though, as I have not with me the Treaty said to exist with Holland confining its right to colonize in these seas within certain limits, I am unable to state whether they are justified in coming so far north on that coast."

The letter also notes the revenues obtained from the Sultan from the East coast, which continued to be considerable despite the difficulties caused by the Spanish blockade.

5.13. The final capitulation of the Sultan of Sulu to Spain occurred later in the same year. Six months after the grant to von Overbeck and Dent, Spain compelled the Sultan to sign a Protocol confirming the Bases of Peace and Capitulation of 22 July 1878. Article I of the Protocol of 22 July 1878 declared "as beyond discussion the sovereignty of Spain over all the Archipelago of Sulu and the dependencies thereof".[14]

5.14. Subsequently Alfred Dent purchased the interests of Baron von Overbeck in the 1878 Sulu grant, and established a "Provisional Association" to which these rights were transferred, as envisaged by the grant itself. The Association petitioned the British Government for a Royal Charter to establish the British North Borneo Company, and on 1 November 1881 the Charter was granted.[15] It recited that Dent's interests, including "his interests and powers in and over and affecting territories, lands, and property in Borneo and islands lying near thereto, including Labuan", had in turn been acquired by the Company. It also recited the terms of the grants from the Sultans of Brunei and Sulu. The British Government was given substantial powers of oversight over North Borneo.

5.15. In the meantime the process of extending the Company's administration to the territory and islands of North Borneo had already begun. Details of the actual administration of North Borneo and its adjoining islands during this period are given in Chapter 6.

5.16. On 12 May 1888 an agreement was concluded between the British Government and the British North Borneo Company.[16] This acknowledged that the territories governed by the Company were an independent state called "the State of North Borneo". The Agreement provided that "the State of North Borneo shall continue to be governed and administered as an independent State by the Company... under the protection of Great Britain". Under the Agreement, it was

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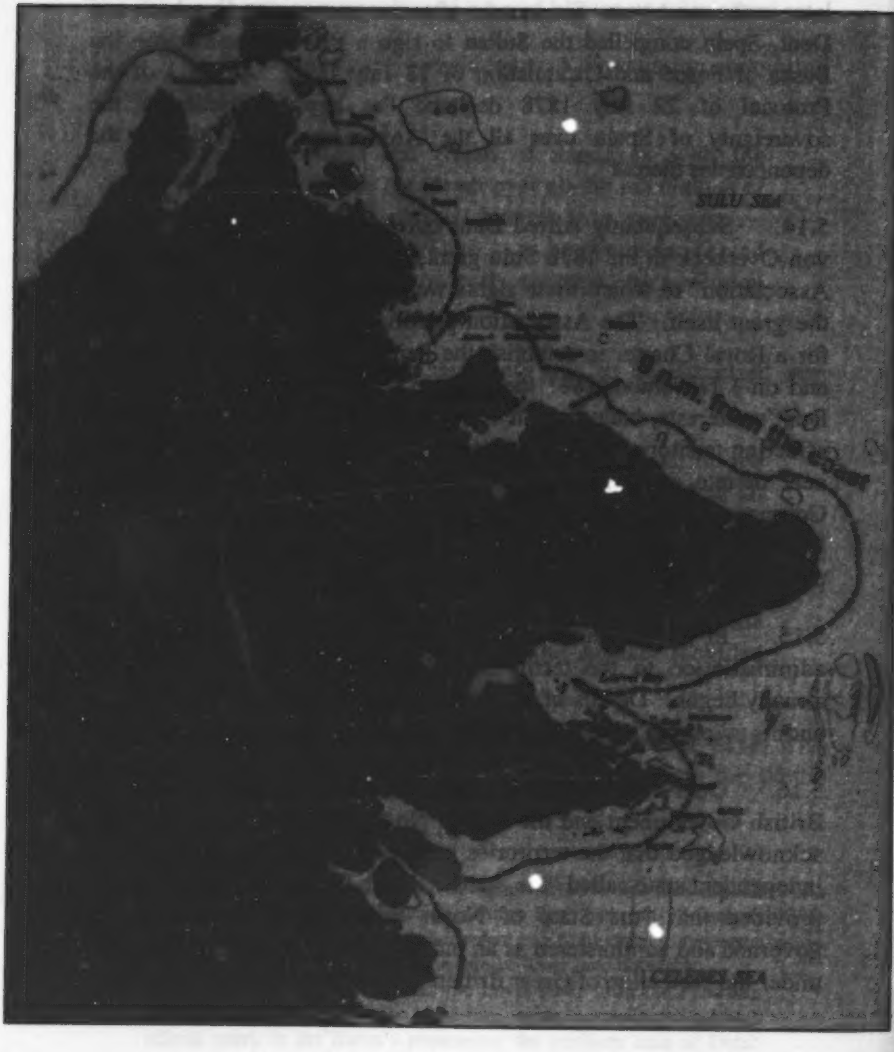
[14] See Annexes, vol. 2, annex MM 12.

[15] See Annexes, vol. 2, annex MM 14.

[16] Annexes, vol. 2, annex MM 16.

Insert 8

Location Map of the 1878 Sulu Grant and the 1903 Confirmation


SULU SEA
9 n.m. from the coast
Darvel Bay
CELEBES SEA

provided that the relations between North Borneo and all foreign States were to be conducted by the British Government, and the Government had substantial powers of oversight, including the determination of the boundaries of North Borneo.

D. The Recognition by Spain of British Rights to North Borneo

5.17. Following the Spanish conquest of Sulu in June 1878 and the Protocol of 22 July 1878 between Sulu and Spain, and despite repeated assurances given by Spain to Great Britain, Spanish officers in the Philippines sought to assert rights over North Borneo. The Sultan was required to write to von Overbeck revoking his grant of January 1878, and in September 1878 a Spanish warship attempted to take control of the North Borneo settlement of Sandakan, without success. Britain protested at these attempts[17] and, after extensive diplomatic correspondence, the matter was regulated by a further treaty between Britain, Germany and Spain.

5.18. This was the Protocol concluded on 7 March 1885.[18] Under Article I, Germany and Great Britain recognized Spanish sovereignty over the whole of the Sulu Archipelago as defined, including over islands not yet occupied by Spain. Article II defined the Archipelago as including "all the islands which are found between the western extremity of the Island of Mindanao on the one side, and the continent of Borneo and the Island of Paragua [Palawan] on the other side, with the exception of those which are indicated in Article III". The Archipelago was defined "conformably to the definition contained in Article I of the treaty signed September 23rd 1836, between the Spanish Government and the Sultan of Sulu". Article III of the 1885 Protocol provided as follows:

> "The Spanish Government renounces, as far as regards the British Government, all claims of sovereignty over the territory of the continent of Borneo, *which belong, or which have belonged in the past* to the Sultan of Sulu

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[17] Annexes, vol. 3, annex MM 37.

[18] Annexes, vol. 2, annex MM 15. The Protocol of 1885 was confirmed (with amendments not relevant for present purposes) by a further agreement between the same three States on 30 March 1897: Annexes, vol. 2, annex MM 18.

> (Jolo), and which comprise the neighbouring islands of Balambangan, Banguey and Malawali, as well as all those comprised within a zone of three maritime leagues from the coast, and which form part of the territories administered by the company styled the 'British North Borneo Company'."

By using the words in italics, the parties avoided taking any position on the meaning or validity of the 1878 grant. According to the British view, the 1878 grant was valid because the Sultanate of Sulu had not yet been effectively occupied by Spain. According to Spain that was not the case, and the territories covered by the grant remained Sulu territory subject to Spanish sovereignty. But whichever view was taken, by the 1885 Protocol Spain relinquished "as far as regards the British Government, all claims of sovereignty" over territory covered by the Sulu grant of 1878, including its offshore islands within three marine leagues (nine nautical miles) of the coast. Whatever the position may have been in 1878, the sovereignty of Spain over the Sulu Archipelago was clearly established in 1885. Thus Spain was competent in 1885 to relinquish to Britain "all claims of sovereignty" over the territories covered by the Sulu grant of 1878.

5.19. The islands of Ligitan and Sipadan lie more than three marine leagues (9 n.m.) from the coast of Borneo.[19] Literally they fell outside the terms of the Sultan's grant of January 1878 and outside the terms of Spain's retrocession or recognition in Article II of the Protocol of 1885. Despite this, the Company went ahead and acted on the basis that it had authority over those islands, and others similarly situated (as will be seen in further detail in Chapter 6). Spain appears to have been quite indifferent to this and never opposed their administration from and by North Borneo. The issue was not raised until the United States had acquired sovereignty over the Philippines, following the Spanish-American War of 1898, by the peace treaties of 1898 and 1900.

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[19] Sipadan is 14.8 n.m. from the nearest point on the coast (Tanjong Tutop). Ligitan is 21.5 n.m. from the nearest point on the coast (the foothill of Hood Hill).

E. The Recognition by the Netherlands of British Rights to North Borneo

5.20. Shortly after the proclamation of the British protectorate over North Borneo in 1888,[20] Great Britain and the Netherlands began negotiations to resolve the sole remaining issue between them in relation to Borneo, viz. the location of the boundary between their respective possessions. The 1891 Boundary Treaty is discussed in Chapters 8 and 9 below.[21] Only the following comments are called for here.

(a) The Treaty gave express Dutch recognition to the British protectorate over North Borneo and expressly renounced Dutch claims to territory on or adjacent to the coast of North Borneo, with the exception of the southern part of the island of Sebatik and the immediately adjacent islands.

(b) The Treaty did not refer to Ligitan or Sipadan. The Netherlands made no claim to those islands, nor did it ever subsequently assert any title to those or any other islands off the coast of North Borneo.

(c) So far as those islands were concerned, the remaining question concerned the identification of which islands belonged to Britain because they were within three marine leagues of the Borneo coast, and which belonged to Spain. The Netherlands had nothing whatever to do with that question. But in fact that question was not raised even by Spain; it was not until 1903 that it was raised by the United States, as successor to Spain, and during the period from 1878 to 1903 the Company proceeded to establish an administration over all the offshore islands, whether or not they were within three marine leagues of the coast.

(d) Of course, in relation to any islands which belonged to Spain after 1885, Britain had no title which it could convey to the Netherlands in 1891. Thus, even if the 1891 Treaty had purported to convey the islands to the Netherlands (which it did not), it could not have had this effect as a matter of law.

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[20] See Annexes, vol. 2, annex MM 16.

[21] For the text of the Treaty see Annexes, vol. 2, annex MM 17.

F. The Recognition by the United States (as successor to Spain) of British Rights to North Borneo, including the Disputed Islands

5.21. As noted above, there was no discussion of which islands fell on which side of the three marine league line as between Britain and Spain. Spain was evidently willing to allow the administrative *status quo* in relation to the offshore islands to remain unchanged.

5.22. In 1898, however, following the Spanish-American war, Spain ceded to the United States "the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line...".[22] The line drawn by the Treaty of Paris of 1898 is shown in the sketch map which is **Insert 9**, on the following page. Evidently, Ligitan and Sipadan did not fall within that line. However by a supplementary Convention of 7 November 1900,[23] Spain relinquished to the United States...

> "all title and claim of title, which she may have had at the time of the conclusion of the Treaty of Peace of Paris, to any and all islands belonging to the Philippine Archipelago, lying outside the lines described in Article III of that treaty and particularly to the islands of Cagayan Sulú and Sibutú and their dependencies".

In this context, the reference to islands "lying outside the lines described" in Article III was to islands lying west and south of the 1898 Treaty line.

5.23. For his part the Sultan of Sulu expressly recognized United States sovereignty "over the whole Archipelago of Jolo and its dependencies" by an Agreement of 20 August 1899.[24]

5.24. Since the United States acquired over the Philippines only the rights which Spain had previously had, Spain's relinquishment in 1885 of any claims to territory covered by the 1878 grant was clearly binding on the United States. The position was carefully analysed by

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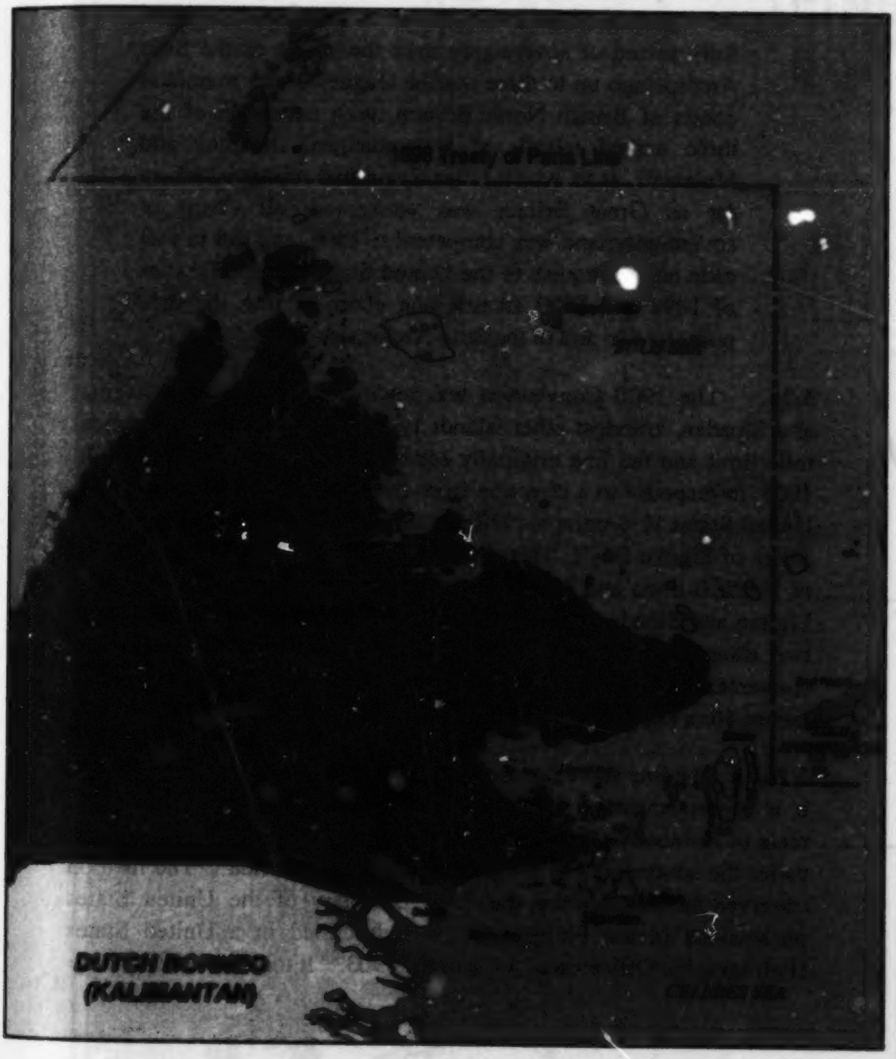
[22] Treaty of Paris, 10 December 1898, Article III: Annexes, vol. 2, annex MM19.

[23] Annexes, vol. 2, annex MM 21.

[24] 187 CTS 481: Annexes, vol. 2, annex MM 20. The Agreement of 20 August 1899 between the United States and the Sultan of Sulu was cancelled by the United States in 1915, and the Sultanate itself was suppressed in 1936.

Insert 9

Line described in the 1898 Treaty of Paris


1898 Treaty of Paris Line
DUTCH BORNEO
(KALIMANTAN)
CELEBES SEA

Secretary of State Hay in a letter of 3 April 1903, in which he concluded that:

> "The Spanish Government was, therefore, at the time of the signature of the Treaty of Peace, December 10, 1898 fully seized of sovereignty over the whole of the Sulu Archipelago up to three marine leagues of the mainland coasts of British North Borneo, with exception of the three named islands of Balambangan, Banguey and Malawali, as to which latter Spain had relinquished, so far as Great Britain was concerned, all claim of sovereignty, and was competent to cede, and did in fact cede and relinquish to the United States, by the Treaties of 1898 and 1900 all title and claim of title she then possessed in and to the Sulu Archipelago."[25]

5.25. The 1900 Convention was understood as covering Ligitan and Sipadan, amongst other islands lying between the three nautical mile limit and the line originally established by the 1898 Treaty. In 1903, in response to a direction from the Secretary of the Navy,[26] the United States Hydrographic Office published a chart of the "Northern Shore of Sibuko Bay". This showed a line passing between the coast of North Borneo and Mabul Island, on the one side, and, *inter alia*, Ligitan and Sipadan on the other side. The line also separated those two islands from Netherlands territory to the west and south. For convenience an extract from the map is reproduced on page 51, as **Insert 10**: a copy of the complete map is in the Map Annex.[27]

5.26. The line shown on the map is described as a "boundary line". It is accompanied by this caption "The outlying islands, islets and reefs of Borneo lying outside of the boundary line – · – · – · – · – are under the sovereignty of the United States of America". The method observed in "delineating the S.W. boundary of the United States possessions in the Philippines" was described in a United States Hydrographic Office note of 8 August 1903.[28] It took into account the

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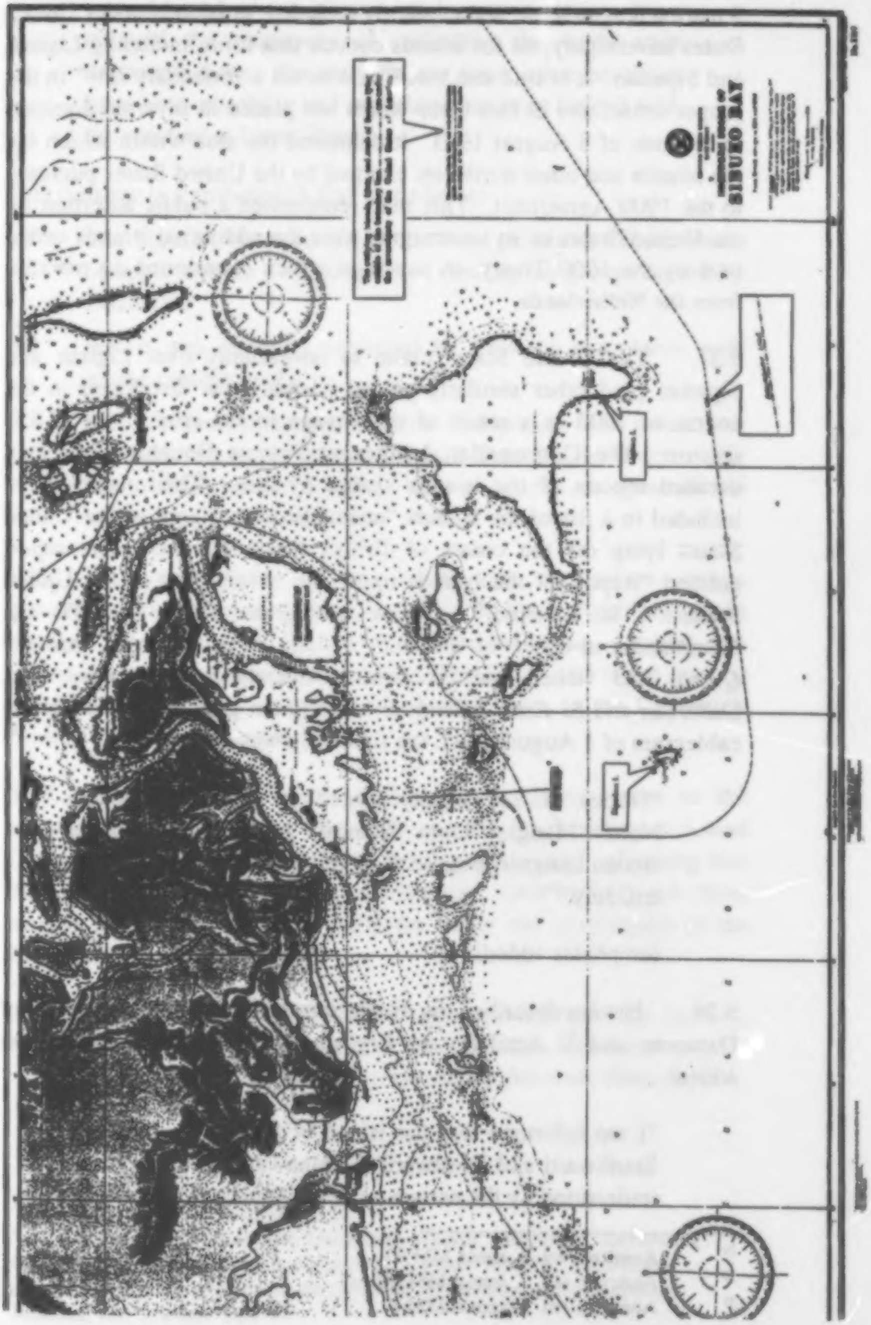
[25] Annexes, vol. 3, annex MM 55.
[26] Annexes, vol. 3, annex MM 62.
[27] Annexes, vol. 5, Map 5.
[28] Annexes, vol. 3, annex MM 62.

Northern Shore of Sibuko Bay (extract)



3 marine league limit, and explicitly included, as islands under United States sovereignty, all the islands outside that limit, including Ligitan and Sipadan. It is true that that line was not a "boundary line" in the proper sense, and in fact these words are placed in inverted commas in the note of 8 August 1903. It delimited the area within which lay the islands and other territories claimed by the United States pursuant to the 1900 Agreement. This map represented a public assertion by the United States of its sovereignty over the additional islands ceded to it by the 1900 Treaty, an assertion which occasioned no reaction from the Netherlands.

5.27. The United States claim to sovereignty over Ligitan and Sipadan (and other similarly placed islands) was developed in the course of 1903 as a result of the voyage to the area of the *U.S.S. Quiros*. The Commander, Lieutenant Francis Boughter, provided detailed reports of the islands visited by him. Their names were included in a list of the islands "under the sovereignty of the United States lying off the coasts of British North Borneo". The report entitled "Report of the Islands under the sovereignty of the United States...", is annexed.[29] In a cablegram of July 1903, the Commander-in-Chief of the U.S. Asiatic Fleet recorded that the *Quiros* had visited and proclaimed sovereignty over, *inter alia*, Danawan and Si Amil (islands in the Ligitan group).[30] In a further cablegram of 1 August 1903, the following was recorded:

> "Notice of Sovereignty posted on additional Islands North Mangsi South Mangsi Tambulian Tibbakan Booan Langaan Baguan Kapolai *Sipidan* by Quiros June and July."[31]
>
> (emphasis added)

5.28. Having described his discussions with the Malay residents of Danawan and Si Amil (in the Ligitan group), Lieutenant Boughter added:

> "I am informed that the island of Sipadan lying to the Southward and Westward of Danawan has always been understood by the natives as being appanage of the latter

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[29] Annexes, vol. 3, annex MM 63.

[30] Annexes, vol. 3, annex MM 60.

[31] Annexes, vol. 3, annex MM 61.

> named island whose inhabitants, by native custom, have enjoyed the monopoly of collecting the turtle eggs deposited there. Recently Bajaus from other localities have been poaching and complaint has been lodged with the resident at Lahat Datu."

This passage is significant in that it confirms:

(a) that Sipadan was regarded by the local people as a dependency or appurtenance ("appanage") of the Ligitan group, especially Danawan;

(b) that it was regularly exploited by them in accordance with native custom; and

(c) that problems arising in relation to Sipadan were referred to the Government Resident at Lahad Datu on the mainland of North Borneo; the Resident was of course an agent of the North Borneo Government.

5.29. Although these reports were not themselves public documents at the time, the assertion of United States rights was made openly. In addition to the notice referred to above, a tablet was placed on each of the islands visited. This notice and tablet may be compared to the ones on which the French claim to the Clipperton Islands was based and upheld.[32]

5.30. Certainly the voyage of the *U.S.S. Quiros* came to the attention of the Company. On 24 June 1903 the Resident at Lahad Datu, in response to a letter from Lieutenant Boughter informing him that the islands of Tatagan and Danawan were beyond the three marine league line and were therefore under the sovereignty of the United States, responded that:

> "These islands have always been administered by us since our advent here and the Spanish have never claimed or exercised any sovereign rights over them as far as I know."[33]

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[32] See (1932) 2 UNRIAA 1105.

[33] E.H. Barrault, Resident, Lahat Dato to Lieut. Boughter, Commanding *U.S.S. Quiros*, 24 June 1903; Annexes, vol. 3, annex MM 56. See also the telegram sent by the Resident to the Governor, apparently on the same day: Annexes, vol. 3, annex MM 57.

On the following day, the Governor wrote to the Chairman of the British North Borneo Company, pointing out that:

> "though the Sultan of Sulu's agreement of 22nd January 1878 ceding certain islands refers to those that are within three marine leagues of the coast, his commission dated the same day to Baron Overbeck in its preamble recital omits that definition. It is certain that under that Commission the representative of the Chartered Company has always administered the islands referred to."[34]

The view of the Company was that the three marine league line did not strictly limit the islands under its jurisdiction, and that Spain had acquiesced in the Company's administration of the islands located beyond three marine leagues from the coast. At any rate, it was "certain" that the Company was administering the islands to the exclusion of all others.

5.31. This letter was followed by further action on the part of the Company. In a letter of 13 July 1903,[35] the Chairman wrote to the Foreign Office on behalf of the Court of Directors of the Company, protesting against the actions of the *U.S.S. Quiros* and explaining that the various islands off North Borneo had been peacefully administered by the Company since 1881, without any opposition from Spain. The letter read in part:

> "10. Almost immediately after the formal occupation [in 1878] …the Illunan pirates, who made a base of the islands fringing the north-east coast, infested Sandakan and other places on the coast, killing and capturing many of the inhabitants, who appealed to our officials for protection. The appeal was, in view of our authority under the Commission [to Baron von Overbeck], promptly responded to, and with the assistance of Mr Cowie's steamer 'Far East,' which was subsidised by the North Borneo Government, and acted as their gun vessel, the pirates were dispersed, and all their abandoned island haunts, which from time immemorial had politically and geographically formed part of North

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[34] Annexes, vol. 3, annex MM 58.
[35] Annexes, vol. 3, annex MM 59.

> Borneo, were annexed, and have ever since been administered by the North Borneo Government as an integral portion of their territory.
>
> 11. And at no time, since the occupation of the island by us, did the Spanish authorities ever object to our occupation and control of them; nor, so far as the Court are aware, have the American authorities, previous to the action of which we have complained, ever questioned our right of possession."

The letter went on to refer to recent discussions with the Sultan of Sulu, before concluding as follows:

> "23. ...[T]he Court think that the American Government, when placed by the Secretary of State in possession of the foregoing facts, will readily agree to instruct their local officials to remove the flags and tablets they placed on islands which, notwithstanding anything else, have been under British jurisdiction for nearly a quarter of a century.
>
> 24. For the information of the Secretary of State, I have attached a map, showing clearly the respective spheres of influence and control.
>
> 25. All the islands and territory to the east of the red line have since our occupation of North Borneo been under the suzerainty of Spain and the United States respectively; while those to the west of it have been administered by the Government of our State."

5.32. As has been seen, Ligitan and Sipadan were among the islands visited by the *U.S.S. Quiros* and which are referred to in paragraph 23 of the Company's letter. They are to the west of the line on the map attached to that letter, and that line was in turn reproduced and expressly referred to in the map attached to the 1907 Exchange of Notes, discussed in paragraphs 5.38-5.40 below and shown opposite page 55 of this Memorial. The Company's letter is further evidence of its administration of the islands in the period after 1878.

5.33. At the same time the Company took steps to obtain confirmation from the Sultan of Sulu of its authority over the off-shore islands beyond three marine leagues. On 22 April 1903 the

Sultan of Sulu signed a certificate at Sandakan which provided as follows:

> "Whereas We, His Highness the Sultan Haji Muhammad Jamalulkiram son of His Highness the late Sultan Jamaluladzam, who possess the throne of sovereignty of the State of Sulu and all its dependencies solemnly declare in this certificate that We have been pleased to cede of our own free will to the Government of British North Borneo all the islands in the neighbourhood of the mainland of North Borneo from the island of Banggi to Sibuku Bay. These are their names:- Mulayangin. Mulayangin Kechil, Malawali, Tigabu, Bilian, Tagapil, Langkayan, Boan, Lahiman, Bakungan, Bakungan Kechil, Libaran, Taganak, Baguan, Mantanbuan, Gaya, Omadal, Siamil, Mabul, Kapalai, Dinawan, and other islands near, or round, or lying between the said islands named above.
>
> The reason why the names of these islands were not mentioned in the agreement made with Baron de Overbeck and Mr. (now Sir) Alfred Dent on the 19th day of Muharram A.H. 1295 corresponding to the 22nd January, 1878, is because it was known and mutually understood that these islands were included in the grant of the countries and islands mentioned in the agreement above referred to."[36]

This declaration was approved by the Governor of North Borneo on 29 April 1903.

5.34. It should be noted that the two inhabited islands of the Ligitan group, Si Amil and Danawan, were mentioned by name in the Sultan's Confirmation of 1903. Furthermore, the valuable rights over Sipadan belonged to the local headmen of Danawan under an earlier Sulu grant. The reference in the Confirmation to the "other islands near, or round, or lying between the said islands named above" was sufficiently extensive to cover, and undoubtedly did cover, Ligitan and Sipadan.

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[36] See Annexes, vol. 2, annex MM 22.

5.35. However, the British Foreign Office evidently had doubts about the legal effect of the Sultan's certificate, since whatever the position may have been in 1878, the Sultan no longer had any international status whatever, and could not cede territory belonging to the United States. Even the Company itself came to realize that its title, as opposed to its right to administer the islands based upon actual administration and control, might be open to question. When the United States pressed its claim to the additional islands under its 1900 Treaty with Spain, the British Government did not object, but rather sought an arrangement with the United States that would ensure the continuity of the Company's administration. The Company itself rather reluctantly accepted this position, as indeed it was bound to do under the terms of the 1881 Charter.[37]

5.36. The correspondence on this matter, between the British Ambassador in Washington and the U.S. Secretary of State, is set out in Annexes, vol. 3, annexes 32-34. Only the key passages need be referred to here. On 10 December 1904, the Secretary of State, Mr Hay, responded to the oral inquiry by the British Ambassador "as to the status of certain islands near the coast of British North Borneo".[38] In relevant respects Mr Hay's letter reads as follows:

> "The title of Spain to the Sulu Archipelago, of which Cagayan and Subutu formed part, rests on historical facts and repeated act of submission of the Sulu chiefs to the Crown of Spain, and the territorial limits of Spanish jurisdiction in that quarter are stated in general terms in the protocols signed between Great Britain, Germany, and Spain in 1877, 1885, and 1897, from which it appears that Spain relinquished in favour of Great Britain all claim of sovereignty over the territories of the mainland of Borneo which then belonged or had belonged in the past to the Sultan of Sulu, including therein the neighbouring islands of Balambangan, Banguey, and Malawali, 'as well as all those islands lying within a zone of 3 marine leagues along the coast, and which form part of the territories administered by the company styled British North Borneo Company,' while as to the rest of the islands pertaining to her under

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[37] See Annexes, vol. 2, annex MM 14.

[38] See Annexes, vol. 3, annex MM 65. The places mentioned here are shown on Insert 8 at page 39, and on a larger map in Annexes, vol. 5 Map 4.

the Suluan capitulations and submissions Spain reserved and was admitted to have sovereignty whether they were effectively occupied by Spain or not.

I am not aware that at any time between the conclusion of the protocols of 1877, 1885, and 1897, and the conveyance by Spain to the United States in 1900, of all title and claim of title in that quarter, any effective tracing of the 3-league water boundary along the North Bornean coasts was made or attempted by Great Britain and Spain. Both countries appear to have rested content with the treaty definition and with the Spanish reservation of sovereignty outside of the line so defined. It is one of the common cases where a conventional description of a boundary line has not been carried into effect by a physical demarcation, and where the coterminous sovereignties may at any time give effect thereto by actually laying down the line as a proper proceeding under their existing treaty rights.

The geographical features of the Bornean coast and the adjacent islands are, however, such as would seem to preclude an exact definition of the treaty line between its land and water territories and those of the Sulu groups, without positive knowledge upon which the two Governments could base an intelligent agreement. A line traced 3 marine leagues seaward from the windings of an irregular coast is necessarily somewhat arbitrary and, all other things being equal, considerations of mutual convenience may be taken into account, as for instance, when an island other than those enumerated in the existing protocols should be cut in two by the 3-league line. Again, the protocols are silent as to the points of the North Bornean coast where the 3-league line begins and ends. As to these matters I see no reason why they should interfere with the settlement of the whole question by a mutually satisfactory agreement.

As a step toward that desirable end the Government of the United States would be willing to come to an understanding with His Majesty's Government whereby a joint examination of the North Bornean neighbourhood shall be made by two experts, one on

> behalf of each Government, under instructions to agree if possible upon a tentative line which shall conveniently and fairly represent the intention of the parties to the protocol of 1885, making report thereof to their respective Governments with statement of any points upon which they may not be able to agree. Upon receipt of these reports, the two Governments will be in a position to determine upon a definitive settlement of the matter in such way as shall be found appropriate.
>
> If this proposal should be acceptable to His Majesty's Government your reply to that effect will be regarded as perfecting the agreement by exchange of notes."

5.37. The British Ambassador in reply suggested that the United States might be prepared to relinquish title to the islands in question "out of consideration for the fact that the North Borneo Company had during many years carried on the administration of them under the apparent belief that the islands formed part of the company's territory".[39] Since the United States already accepted that the islands within the 3 marine league line were part of British North Borneo, it is clear from the context, and from the preceding events, that this was a reference to islands lying outside the 3 marine league line which were nonetheless administered by the Company.

5.38. The United States was, however, not prepared to cede these additional islands to North Borneo. After considerable further discussion, it was agreed, by an Exchange of Notes of 3 and 10 July 1907[40], that the Company would continue to administer them, subject to certain conditions, and in particular subject to termination on one year's notice. The terms of the arrangement included the following:

> "Firstly: that the said Company is left undisturbed in the administration of the islands in question without any agreement specifying details, the United States Government simply waiving in favour of the said company the right to such administration in the meantime, in other words that the existing status be continued indefinitely at the pleasure of the two governments concerned.

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[39] See Annexes, vol. 3, annex MM 66.

[40] See Annexes, vol. 2, annex MM 23-24.

Insert 11

> Secondly: that such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company, and any grant, concession or license, made by the company shall cease upon the termination of the company's occupation.
>
> Thirdly: that the temporary waiver of the right of administration on the part of the United States Government shall cover all the islands to the westward and southwestward of the line traced on the map which accompanied Sir H.M. Durand's memorandum of the 2nd of June, 1906, and which is annexed to and to be deemed to form part of this Note."

The accompanying map (set out for convenience in a photo-reduced copy as **Insert 11 opposite**) was based on information provided by the Company to the Foreign Office in a despatch of 13 July 1903. It contains a red line drawn alongside the east coast of Borneo down to 4° N, i.e. extending southwards beyond the latitudes of Ligitan and Sipadan, which are clearly shown on the map.[41]

5.39. In the 1907 Exchange of Notes, Great Britain thus recognized the continuing sovereignty of the United States, as successor to Spain, over the islands beyond the 3 marine league line. On the other hand the United States accepted that these islands had been in fact administered by the British North Borneo Company and agreed to allow that situation to continue, subject to termination on 12 months' notice.

5.40. It is clear from all relevant sources that the islands covered by the 1907 Exchange of Notes included all those adjacent to the North Borneo coast beyond the three marine league line. These sources include: (a) the correspondence associated with the voyage of the *U.S.S. Quiros*; (b) the Sultan's certificate of 1903 which, whatever its legal effect may have been, identified the islands affected and confirmed that they were being administered by North Borneo; and (c) the map attached to the 1907 Exchange of Notes. These sources are fully consistent with each other, and it is clear that they covered, *inter alia*, Ligitan and Sipadan.

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[41] For a larger version of the map see Annexes, vol. 5, Map 6.

5.41. The 1907 Exchange of Notes was published at the time by the United States[42] and by Britain.[43] It attracted no protest on the part of the Netherlands Government.

5.42. The legal position as between the United States and Britain (acting on behalf of North Borneo) continued to be regulated by the 1907 Exchange of Notes for nearly 25 years. It was not without its inconveniences, as noted in a Memorandum by a British official, W.J. Worth on 14 July 1922:

> "In the absence of any precise determination of this [i.e. the three league] line it is impossible to say exactly how many of the islands are under American sovereignty and how many are under North Borneo sovereignty."[44]

But this uncertainty was limited to the question of sovereignty. There is no doubt that a license had been validly granted to the Company to administer the islands to the west of the line drawn by the 1907 Exchange of Notes, which, for the reasons already given, clearly covered Ligitan and Sipadan.

5.43. The matter was finally resolved by a treaty between the United States and Britain of 2 January 1930 (hereinafter "the 1930 Treaty"), which came into force after exchange of ratifications on 13 December 1932.[45] Under the 1930 Treaty it was agreed that the islands of the Philippine Archipelago and the islands belonging to the State of North Borneo should be separated by a line joining 10 specified points. The 1930 line was drawn so as to begin and end at points on the 1898 Treaty of Paris line: in other words, it allocated in sovereignty all of the islands, formerly belonging to Spain, which were to the south and west of the 1898 line. Its effect, as compared with the 1898 and 1907 lines, can be seen from **Insert 12**, on the following page.

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[42] See *Foreign Relations of the United States* 1907 Part I p. 543 (published 1910).

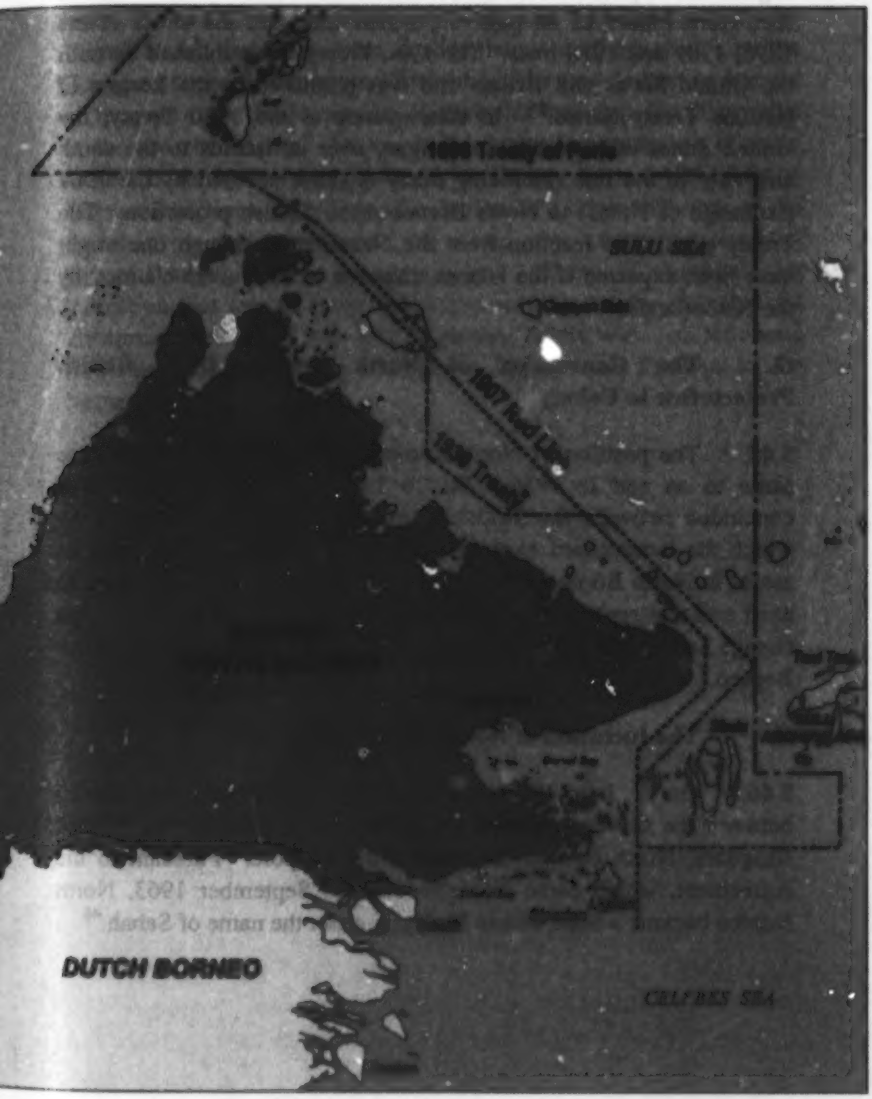
[43] 102 *British and Foreign State Papers* 636.

[44] Annexes, vol. 3, annex MM 72.

[45] Annexes, vol. 2, annex MM 29.

Insert 12

Comparison of the 1898, 1907 and 1930 Treaty Lines


1898 Treaty of Paris
SULU SEA
Cagayan Sulu
1907 Red Line
1930 Treaty
DUTCH BORNEO
CELEBES SEA

5.44. Under the 1930 Treaty, all islands to the north and east of the line were to belong to the Philippine Archipelago and all islands to the south and west were to belong to the State of Borneo. Evidently, Ligitan and Sipadan lie to the south and west of the line, as can be seen from **Insert 12** on page 63, which compares the effect of the 1898, 1907 and 1930 lines. The 1930 Treaty was published by both the United States and Britain and was published in the League of Nations Treaty Series.[46] In consequence of the 1930 Treaty, the United States relinquished sovereignty over its islands to the south and west of the line (including many of those covered by the 1907 Exchange of Notes) to North Borneo under British protection. The Treaty evoked no reaction from the Netherlands, though one might have been expected if the islands disposed of by it were claimed by the Netherlands.

G. The Conversion of North Borneo from British Protectorate to Colony

5.45. The position of North Borneo as a separate protected State came to an end in 1946. On 26 June 1946 an agreement was concluded between the British Government and the Company by which the latter ceded to the Crown all its sovereign rights and its assets in North Borneo.[47] The State of North Borneo thus ceased to exist and was replaced by the British Colony of North Borneo. This change had no effect on the extent of the territory belonging to North Borneo.

H. The Inclusion of North Borneo in Malaysia

5.46. On 9 July 1963, the Malaysia Agreement was signed between the Governments of the Federation of Malaya, the United Kingdom, North Borneo, Sarawak and Singapore. Pursuant to the Agreement, which came into effect on 16 September 1963, North Borneo became a State within Malaysia under the name of Sabah.[48]

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[46] See League of Nations Treaty Series vol. 136-7 p. 293.

[47] Annexes, vol. 2, annex MM 30.

[48] Annexes, vol. 2, annex MM 31.

I. Conclusion

5.47. The express recognition by the United States in 1907 that the islands in question would continue to be administered by the British North Borneo Company, although belonging in sovereignty to the United States, and the continued administration of the islands by the Company under British protection without the least protest or attempt on the part of the Netherlands to disturb this situation, are dispositive of the present dispute. So too is the express retrocession of these same islands by the United States to Britain by the 1930 Treaty. These transactions show beyond a shadow of a doubt that none of the States in the region contested the *status quo*, whether in terms of peaceful administration or sovereignty. There is absolutely no indication that any of those States ever entertained the idea that the unexpressed effect of the 1891 Boundary Treaty was – as Indonesia now, belatedly, argues – to transfer Ligitan and Sipadan to the Netherlands.

Chapter 6

THE CONTINUOUS PEACEFUL POSSESSION AND ADMINISTRATION OF THE ISLANDS BY MALAYSIA AND ITS PREDECESSORS IN TITLE

A. INTRODUCTION

6.1. As already indicated,[1] a second and parallel basis for upholding Malaysia's title to the two islands, as against Indonesia, is by reference to their continuous peaceful possession and administration, without objection from Indonesia or its predecessors in title.

6.2. It is hardly necessary to cite authority for the proposition that, in the absence of agreement to the contrary, long and undisputed possession and administration of territory is sufficient to support the peaceful occupier's title. The cases show that the relevant factual ingredients include such activities as the adoption of legislation relating to the area, the incorporation of the area in the administrative districts of the State concerned, the extension of judicial and police activities to the area, the maintenance of navigational aids and lights in the area, reaction to foreign incursions and the absence of any competing activity or opposition by the other claimant. See, *inter alia*, the *Clipperton Island* arbitration *(France v. Mexico)*,[2] the *Island of Palmas Case (Netherlands v. U.S.)*,[3] and the *Minquiers and Erechos Case (France v. U.K.)*.[4] The manner in which the area has been treated in maps is also relevant. The map evidence in this case will be discussed in Chapter 10 of this Memorial.

6.3. This approach, founded upon long, peaceful and undisputed administration, is not, it must be emphasized, one involving the assertion by Malaysia of a prescriptive title against Indonesia. To invoke prescription would involve an implied acknowledgement that at some time in the past Indonesia (or a predecessor in title) had possessed sovereignty over the islands. That is not at all the case here, as has already been shown. Indonesia and the Netherlands never had title to the islands; so there is no question of their having been deprived of it by prescription. Only if the Court should find that somehow the Netherlands had acquired title to the islands at some earlier stage, would Malaysia need to invoke prescription as the basis for converting its long time possession into a prescriptive title.

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[1] See above, paragraph 5.1.

[2] (1932) 26 *AJIL* 390.

[3] (1928) 2 UNRIAA 829.

[4] ICJ Reports 1953, p. 47.

6.4. The evidence of administration of the islands successively by the Company under British protection, by Britain and then by Malaysia will now be reviewed.

B. ADMINISTRATION BY MALAYSIA AND ITS PREDECESSORS IN TITLE, 1878 TO THE PRESENT

6.5. In 1878, the Company established three residencies for North Borneo, of which the one relevant for present purposes was the East Coast Residency at Sandakan. Settlements were established at Silam, Lahad Datu, Semporna and later Tawau. (For the location of these places, see the sketch map which is **Insert 13**, on the following page.) Key steps in the process of establishing an effective administration over the mainland and adjacent islands included the following:

11 February 1878: Company Resident William Pryer takes up residence at Sandakan Bay.

24 September 1878: Spanish warship visits Sandakan but retreats after Sandakan Sulus refuse to hoist Spanish flag.[5]

30 August 1879: Following action against pirate settlement at Tungku, Sulu and Bajau chiefs submit to Pryer on board *HMS Kestrel*.

July 1881: Company post established at Silam, Darvel Bay.

August 1881: Following approval of Royal Charter, Treacher installed as Governor.

1882: Nakoda Gomba appointed Native Magistrate, Darvel Bay.[6]

1884: Usman appointed customs clerk at Omadal, subsequently expelled by local Bajaus.

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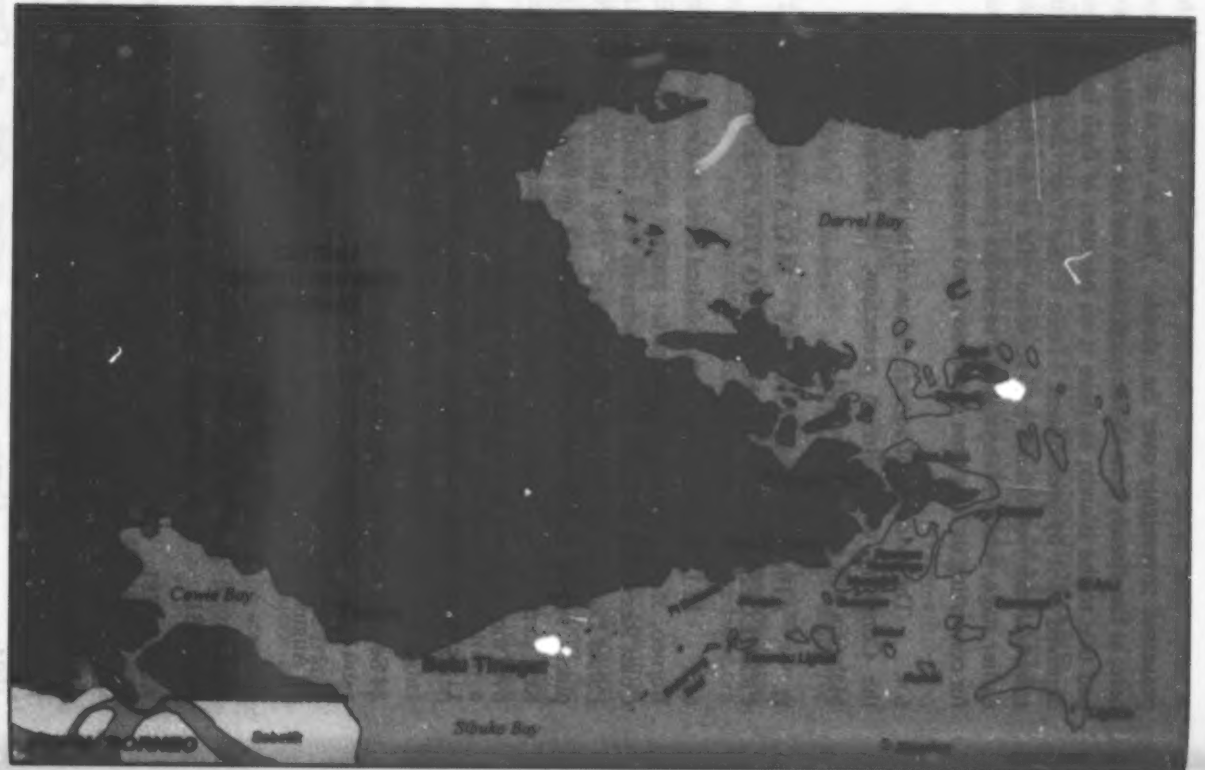
[5] Annexes, vol. 4, annex MM 79.

[6] *NBH*, 1 July 1886, pp. 121-2; Annexes, vol. 4, annex MM 81.

Insert 13

Semporna Region


Darvel Bay
Cowie Bay
Batu Tinagat
Sibuko Bay
Sebatik
BORNEO

November 1885: Callaghan appointed Assistant Resident, Darvel Bay.

24 June 1886: Punitive action by *HMS Zephyr* against Omadal.[7]

May 1887: Governor Treacher selects site of Semporna, inaugurated June 1887.[8]

1888: East Coast Residency moved to Lahad Datu.

April 1891: Punitive action against Danawan by *NBS Petrel*.[9]

August 1892: Punitive action against Omadal, settlement temporarily closed.[10]

1892: Establishment of Company post at Tawau.

October 1892: *HMS Egeria* charts Bajau settlements in Darvel Bay including Danawan, Si Amil.[11]

1896: Bajau boat settlement in Trusan Treacher founded.[12]

1901: Imposition of boat tax & system of jungle passes, made effective in period to 1905.[13]

1909: Resettlement of remaining Bajaus from islands surrounding Darvel Bay to Trusan Treacher near Semporna.[14]

6.6. Contemporary accounts of the administration of the islands along the north-east coast are included, for example, in the pages of the *British North Borneo Herald* and in the papers of the Company now in the Public Record Office, London. There were initial problems with some Bajau communities, especially on Omadal, and repeated punitive expeditions proved necessary. An example is given in a despatch by Lieutenant C.K. Hope, commander of *H.M.S. Zephyr*, on 28 June 1886, in relation to an action taken against Omadal.[15] Actions such as those taken against Tungku (1879), Omadal (1886), Danawan (1891) and again Omadal (1892) demonstrated the authority of North Borneo over the Bajau communities on the various islands. Three measures which were important in extending the authority of the Company over the islands were: the foundation of Semporna (1887); the relocation of the Bajau encampments to Trusan Treacher (1896-1909); and the imposition of a boat licensing system in 1901.[16] Before 1878, the procurement system had been focused on Sulu. Now it came to focus on Semporna. Details of these developments are contained in the contemporary reports cited in paragraph 6.5, and also in the substantial literature about the Company administration of North Borneo referred to in paragraph 2.12 above. The places mentioned in the immediate locality of Semporna are shown on the sketch map which is **Insert 13** on page 68.

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[7] Annexes, vol. 4, annex MM 80.

[8] *NBH*, 1 June 1887, pp. 119-121; Annexes, vol. 4, annex MM 82.

[9] *NBH*, 1 May 1892, p. 137; Annexes, vol. 4, annex MM 83.

[10] *NBH*, 1 September 1892, p. 285; Annexes, vol. 4, annex MM 84.

[11] *NBH*, 1 November 1892, p. 378; Annexes, vol. 4, annex MM 85.

[12] *NBH*, 16 April 1896, p. 133; Annexes, vol. 4, annex MM 86.

[13] See Boats and Fisheries Proclamation 1901: Annexes, vol. 4, annex MM 87.

[14] *NBH*, 16 March 1909, p. 63; Annexes, vol. 4, annex MM 89.

[15] Annexes, vol. 4, annex MM 80.

6.7. A crucial aspect of the Company administration was its co-option of local leaders. In the earlier years these tended to be Sulus who had earlier served the Sultan: for example, Nakoda (later Datu Tumonggong) Gomba (also spelt Gumbah), the Native Magistrate of Darvel Bay, has already been mentioned.[17] In 1903, the Company appointed Panglima Udang (also spelt Uddang), a Bajau, as the Native Magistrate of Darvel Bay. He was based at Semporna. The jurisdiction of Panglima Udang extended to all the kampongs in Semporna and included Tetagan, Danawan, Omadal and Sipadan. He visited these places every two or three months. Datuk Panglima Abdullah, the son of Panglima Udang, signed an affidavit with this information on 25 January 1975, at a time when he was more than 70 years old. He also stated that during his young days he used to accompany his father to Sipadan to collect the turtle eggs which were abundant there.[18] Datuk Panglima Abdullah joined the Colonial Service as a District/Native Clerk in 1924. In 1928 he was promoted to the position of Native Chief, Semporna. His last appointment was as Deputy Assistant District Officer, Semporna, until 1960, when he retired.

6.8. As to Ligitan and Sipadan, at that time the islands were not permanently inhabited, but they were frequently visited and they were fully part of the marine economy of the Bajau. Official interest took such obvious and sufficient forms as control over the taking of turtles and turtle eggs; settlement of disputes; the creation of a bird sanctuary; the establishment of lighthouses and the licensing of boats used to fish the waters around the islands.

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[16] For the decree of 1901 see Annexes, vol. 4, annex MM 87.

[17] See above, paragraph 5.7.

[18] Annexes, vol. 4, annex MM 120.

(1) Collection of turtle eggs

6.9. The right to collect and to control the collection of turtle eggs on Sipadan sheds significant light on the exercise of authority over the island. Turtle eggs were for many years the most significant harvestable commodity on the island and the right to collect them was a valuable asset. The right to collect those eggs had been granted by the Sultan of Sulu well before 1878, and was subject to a license fee payable in kind. Once granted, the right was treated as a heritable right of the grantee and his heirs. The devolution of the right was a matter regulated by customary law and passed by gift or inheritance from person to person. The devolution of these rights in relation to Sipadan is the subject of sub-section (2) below. As will be seen, the ownership of the rights was at all material times vested in local Bajaus who acknowledged the authority of the Company. They alone were entitled to collect the eggs. No other persons were authorised so to do. In so far as there were occasional interlopers, they appear never to have come from the area under Netherlands control but were either locals or Sulu immigrants.

6.10. So far as governmental involvement in the subject is concerned, that was always a matter for the British authorities in the East Coast Residency at Tawau or, more locally, the District Officer at Semporna. There was never any Netherlands or Indonesian involvement in the matter.

6.11. As early as 1914 Britain took steps to regulate and control the collection of turtle eggs on Ligitan and Sipadan.[19]

6.12. The position is clearly illustrated by a letter dated 26 June 1910 from the Assistant District Officer at Semporna to the Resident, East Coast regarding the right to collect turtle eggs on Sipadan.[20] There was a dispute between two local chiefs. As can be seen from the letter, the District Officer had no doubt that the matter was one to be resolved by the British administration. There is no hint that the Netherlands authorities could have any concern with it. Nor was this the first official intervention in relation to turtle eggs on Sipadan because the letter indicates that the District Commissioner had himself settled an earlier problem in relation to Sipadan.[21] The resolution of the matter was approved by the Resident, East Coast, on 26 June 1910 and was noted by the District Officer on 21 July 1910.[22]

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[19] Annexes, vol. 4, annex MM 93.

[20] Annexes, vol. 4, annex MM 91.

6.13. In a letter of 26 January 1916 from the Acting Resident, East Coast, to the Government Secretary, Jesselton, approval was sought for a grant of the monopoly of collecting turtle eggs on Sipadan. This refers to a grant made by an earlier Resident in 1913.[23] A minute addressed to the Resident of the East Coast on 3 May 1916 is of interest not only in relation to this episode but also as containing a statement indicative of the long-standing involvement of the North Borneo authorities in disputes relating to turtle eggs on Sipadan:

> "When His Excellency was Resident of the East Coast, a claim was made by a relative of Panglima Kayen and was dismissed by him as he followed a ruling of Mr. Barrault who spent some years in settling such claims."[24]

6.14. On 6 May 1916 the then Acting Resident of the East Coast, Mr. G.C. Irving executed a *Surat Katrangan* (a letter of confirmation) acknowledging that the Government of British North Borneo recognized the customary rights vested in Panglima Abu Sari and Maharaja Mahmud and their heirs to collect turtle eggs from Sipadan.[25]

6.15. On 18 August 1918 an agreement was executed before the Native Chief of Semporna, Panglima Udang, finally settling the respective shares of Panglima Abu Sari and the descendants of Maharaja Mahmud. On 29 August 1918 G.C. Irving approved the agreement.[26] This document is referred to in a further document dated 5 July 1957, signed by Panglima Abdullah, the son of Panglima Udang,[27] the person who signed the affidavit of 25 January 1975.[28]

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[21] Annexes, vol. 4, annex MM 91.

[22] Annexes, vol. 4, annex MM 92.

[23] Annexes, vol. 4, annex MM 94.

[24] Annexes, vol. 4, annex MM 95.

[25] Annexes, vol. 4, annex MM 96.

[26] Annexes, vol. 4, annex MM 98.

[27] Annexes, vol. 4, annex MM 105.

[28] Annexes, vol. 4, annex MM 120.

6.16. On 2 June 1919 Sipadan was declared to be a native reserve for the collection of turtle eggs, pursuant to section 3 of the Turtle Preservation Ordinance of 1917.[29] This provision was mentioned by the Assistant District Officer, Semporna, in a letter dated 20 October 1958 to the District Officer, Lahad Datu, in which he refers to information given to him by Panglima Sanulki regarding the ownership and devolution of rights to collect turtle eggs on Sipadan.[30]

6.17. In 1923 the Government of British North Borneo published a document entitled "Commercial Sea Products from the coasts of British North Borneo". Reference is there made to turtle eggs in the following terms:

> "The sandy shores of some of our islands, notably Taganac off Sandakan, Turtle Island near Pulau Tiga on the West Coast, and Sipadan Island in Sibuko Bay, abound with turtle eggs..."[31]

This was a clear and public indication of the view of the North Borneo Government that Sipadan was part of the Colony.

6.18. On 28 April 1954 the District Officer at Tawau issued a license under the Turtle Preservation Ordinance 1917 to take a limited number of turtles (as opposed to turtle eggs) in an area which was stated to include "the islands of Sipadan, Ligitan, Kapalat, Mabul, Dinawan and Si-Amil".[32] This led to complaints from residents of Kampong Danawan who feared that their right to collect turtle eggs might be affected. The complaints were made to the District Officer, Lahad Datu and were passed by him on 27 August 1954 to the District Officer, Tawau.[33] As a result, the latter wrote on 1 September 1954 to the General Manager, Borneo Abaca Ltd., at

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[29] Annexes, vol. 4, annex MM 97. The Turtle Preservation Ordinance was enacted on 1 June 1917. Its territorial ambit was "the State [i.e. North Borneo] or the territorial waters thereof". Section 3 gave the Governor power to specify native reserves for the collection of turtle eggs: in the absence of such action, the collection of turtle eggs was an offence under the 1917 Ordinance. Thus the continued exercise of the customary right to collect turtle eggs on Sipadan depended on a decision of the Governor of North Borneo.

[30] Annexes, vol. 4, annex MM 106.

[31] Annexes, vol. 4, annex MM 99.

[32] Annexes, vol. 4, annex MM 102.

[33] Annexes, vol. 4, annex MM 103.

Tawau requesting him to give instructions that his Cocos Islanders cease taking turtles at Sipadan.[34]

6.19. A document reaffirming the gift by Maharaja Mahmud and Panglima Abu Sari of part of their share in the right to collect turtle eggs on Sipadan was executed in 1957 by Panglima Nujum and Kaneh in front of the Native Chief of Semporna, Datuk Panglima Abdullah.[35]

6.20. On 22 December 1962, Mr. Edge, the Resident of Tawau, also wrote to the District Officer, Semporna in terms which indicate that he clearly regarded Sipadan as falling within his jurisdiction.[36]

6.21. These instances of the involvement of North Borneo officials in disputes over the right to collect turtle eggs on Sipadan confirm a pattern established long before. It will be recalled that when the *U.S.S. Quiros* visited the islands in 1903, Lieutenant Boughter recorded that…

> "I am informed that the island of Sipadan lying to the Southward and Westward of Danawan has always been understood by the natives as being appanage of the latter named island whose inhabitants, by native custom, have enjoyed the monopoly of collecting the turtle eggs deposited there. Recently Bajaus from other localities have been poaching and complaint has been lodged with the resident at Lahad Datu."[37]

(2) Devolution of the right to collect turtle eggs on Sipadan

6.22. At the turn of the century, the rights to collect turtle eggs on Sipadan were held by Panglima Abu Sari.[38] He was appointed headman of Danawan by the Company in 1899. Abu Sari gave Maharaja Mahmud the rights to collect eggs for 5 nights in a season (Maharaja Mahmud was himself appointed headman of Danawan in 1905). These rights then passed by succession to, in turn: Maharaja Anggai, Kaneh, Maharaja Mahajud and Maharaja Alukan.

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[34] Annexes, vol. 4, annex MM 104 .

[35] Annexes, vol. 4, annex MM 119.

[36] Annexes, vol. 4, annex MM 112.

[37] Annexes, vol. 3, annex MM 63.

[38] He is referred to as Panglima Basari in the list of indigenous leaders in Annexes, vol. 4, annex MM 90.

Apparently a dispute between Abu Sari and Maharaja Mahmud was settled through the mediation of Panglima Udang. In appreciation of this, it is said that Abu Sari and Mahmud each gave Panglima Udang 5 nights of their share. The total of 10 nights was in due course inherited by Panglima Udang's son, Datuk Panglima Abdullah.[39]

6.23. The details are of limited concern. What matters for present purposes is, again, that the valuable entitlement to collect turtle eggs on Sipadan belonged to leading members of the Island community inhabiting the Ligitan group (especially Danawan), that these entitlements were recognized by North Borneo officials, and that disputes concerning collection of turtle eggs were referred to North Borneo officials to resolve.

(3) Bird Sanctuary

6.24. On 19 December 1932 the Conservator of Forests at Sandakan forwarded to the Government Secretary, Sandakan, a proposal under section 28 of the Land Ordinance, 1930 for a megapode preserve on Sipadan.[40] The proposal was implemented in the form of a notification in the Official Gazette of 1 February 1933.[41] Sipadan is shown as a bird sanctuary in the map at Annexes, vol. 5, Map 13.

(4) Construction and maintenance of lighthouses

6.25. As regards lighthouses, the Colony of North Borneo Annual Report 1960 referred to a grant for various navigational aids and facilities "including the establishment of 15 mile lights at... Sipadan..."[42] The project met with some opposition from a resident of Danawan who had the right to collect turtle eggs on Sipadan. He complained to the Assistant District Officer, Semporna, who reported the protest to the Resident at Tawau on 25 October 1961.[43] Nonetheless the lighthouse was built.

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[39] Annexes, vol. 4, annex MM 120. For a slightly different version of the story, see Annexes, vol. 4, annex MM 117.

[40] Annexes, vol. 4, annex MM 100. Megapodes are large mound-building birds.

[41] Annexes, vol. 4, annex MM 101.

[42] Annexes, vol. 4, annex MM 108.

[43] Annexes, vol. 4, annex MM 109.

6.26. The Colony of North Borneo Annual Report, 1961, refers to the completion during the previous year of a "75 foot Light Tower at Sipadan (Alice Channel), completed in October; 300 – mm light to be established early next year".[44]

6.27. Publicity was given to this new construction by the Government of North Borneo. On 10 July 1962 a Notice to Mariners (No.9 of 1962) was issued. It bore the heading "Colony of North Borneo". The principal sub-heading was "Borneo - East Coast - Sibuko Bay (Pulo Sipadan)". The notice contained information about the location and operation of the light.[45] It elicited no reaction from Indonesia.

6.28. The same is true of a similar notice issued on 17 July 1963 (No.6 of 1963) in relation to a light "establishment on the small islet in the south part of Ligitan Reef".[46] The coordinates given are those of Pulau Ligitan.

6.29. A letter of 2 August 1973 on behalf of the Director of Marine (in Malay, *Pengarah Laut*) to the Director, Lands and Surveys (*Pengarah Tanah dan Ukur*) at Kota Kinabalu, states:

> "It is confirmed Light Towers are established on the above islands, Sipadan constructed and completed in July 1962 and Ligitan in July 1963. Correspondence with Resident, Tawau and District Officer, Semporna dating back to 1961 on their proposal was all copied to you at the time. These are unwatched Light Towers (in other words, no lightkeepers) serviced at six monthly intervals (April/October yearly) and in continuous operation for coastal navigation."[47]

These lights exist to this day. They are regularly maintained and fall within the administrative responsibility of the Sabah Marine Department. Photographs of the lights maintained on the two islands are shown at pages 22 and 25 above.

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[44] Annexes, vol. 4, annex MM 110.

[45] Annexes, vol. 4, annex MM 111.

[46] Annexes, vol. 4, annex MM 113.

[47] Annexes, vol. 4, annex MM 115.

(4) Control of tourism

6.30. The development of tourism on Sipadan was described in Chapter 3.[48] It has involved the Malaysian Government in extensive official action in relation to that island. Access to Sipadan is exclusively via Malaysia, and except for visitors who are nationals of States with visa exemption arrangements with Malaysia, visitors have to apply for Malaysian visas, stating their intended destination.

6.31. Effective from 25 September 1997, Sipadan and Ligitan became protected areas under the Protected Areas Order 1997 (made under the Protected Areas and Protected Places Act 1959).[49] At the same time action has been taken to enforce applicable planning and building regulations. In order to limit the number of tourists visiting Sipadan, special approval to visit has to be obtained from the Sabah Office, National Security Division, Prime Minister's Department.

C. CONCLUSION

6.32. The material presented above demonstrates very clearly the continuous exercise by North Borneo, Britain and Malaysia over the islands around the Semporna Peninsula, including Ligitan and Sipadan. This activity has related to the principal aspects of life on the islands with local importance. The satisfaction of the rules relating to the acquisition and retention of title to territory, as laid down in well-known jurisprudence of this Court and arbitral tribunals, has thus been fully demonstrated by Malaysia.

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[48] See above, paragraph 3.19.

[49] Annexes, vol. 4, annex MM 123.

Chapter 7

NETHERLANDS AND INDONESIAN INACTIVITY IN RELATION TO LIGITAN AND SIPADAN

A. Introduction

7.1. In contrast with the many acts of British and Malaysian administration presented above, Malaysia has been able to trace only rare and isolated examples of action taken by Indonesia or its predecessors in relation to the islands, and none of it reflects a claim of right based on evidence of title to the islands in dispute. The failure of the Netherlands at any relevant time to assert any claim to Ligitan or Sipadan is itself a significant fact in this case, to be contrasted with the chain of title, and the positive evidence of administration by the Company and by Britain, as set out in Chapters 5 and 6 above. So too is the failure of Indonesia to make such a claim in relation to Britain or Malaysia until 1969, and the absence, before and since, of any exercise by Indonesia of any administration or control whatever over the two islands.

B. Absence of any claim by the Netherlands to Ligitan and Sipadan

7.2. In the early part of the nineteenth century, the southern part of the east coast of Borneo was subject to the Sultan of Bulungan. But Dutch maps of the period showed the islands offshore of North-east Borneo as being part of the possessions of the Sultan of Sulu,[1] and contemporary statements of the responsible Dutch Ministers are to the same effect.[2] The "Contract of Vassalage" of 12 November 1850 between the Dutch East Indies Government and the Sultan of Bulungan defined the latter's territory in the following words:

> "The territory of Boeloengan lies within the following limits:-
>
> Towards Goenoeng Teboer: from the sea-shore inland,

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[1] See above, paragraph 5.8 (a).

[2] See above, paragraph 5.8 (b).

> the River Karanliegan, from its mouth to its source beyond the Batoe-Bevekkier and the Palpakh Mountain;
>
> Towards the Zulu possessions on the sea-shore, the cape called Batoe Tinagat and beyond the River Tanwan.
>
> The following islands shall belong to Boeloengan, namely, Terakkan, Nenoekkan, and Sebittikh, together with the small islands belonging to them.
>
> This determination of the frontiers is to be considered as provisional, and they shall be revised in detail and fixed afresh."[3]

7.3. None of the places identified in the Contract of 1850 as belonging to Bulungan is anywhere near Ligitan or Sipadan. The furthest limit of the territory of Bulungan, according to this rather equivocal claim, was the mouth of the Tawau River and a neighbouring point called Batu Tinagat. In fact there was little or no evidence of control or influence on the part of Bulungan so far north, or even beyond the Sibuko River, which was the southernmost point of the Sulu grant of 1878, and this weakness was candidly conceded in the Explanatory Memorandum by the Dutch Government which accompanied the proposal for Parliamentary approval of the 1891 Treaty.[4] In 1879, the Dutch flag was hoisted at Batu Tinagat, but the Netherlands could not sustain its claim to so northerly a point, and in the 1891 Boundary Treaty the limit of the Dutch claim was reduced to a point on the mainland coast, namely Broershoek, opposite the island of Sebatik. Even as to that immediate offshore island, Dutch title was accepted only as to its southern half. The town of Tawau, after its establishment by the Company in 1892, became a North Borneo administrative centre.

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[3] Contract of 12 November 1850: Annexes, vol. 2, annex MM 3. The original text in Dutch reads:

> "Het gebied van Boeloengan ligt binnen de volgende grenzen:
> met Goenoeng Teboer: van af het zeestrand naar binnen 's lands, de rivier Karantiegan, van af hare monding tot aan haren oorsprong, voorts de Batoe-Beoekkier en de berg Palpakh;
> met de Solokse bezittingen: aan zee de hoek genaamd Batoe Tinagat, en voorts de rivier Tauwan.
> Tot Boeloengan zullen de volgende eilanden behooren Terakkan, Nenoekkan en Sebittik, met toebehoorende eilandjes.
> Deze grensscheiding wordt als voorlopig aangenomen, en zal nader geheel worden nagegaan en op nieuw vastgesteld."

[4] See above, paragraph 5.8(c); see also below, paragraph 9.11 (c).

7.4. The Bulungan Contract of 1850 also referred to "Terrakan, Nenuoekkan and Sebittik together with small islands belonging to them" ("*met toebehoorende eilandjes*"). But it is clear that this was a reference to the small islands immediately surrounding and between the three named islands, which can also be seen on the Sketch map on page 32 above. None of these islands was anywhere near Sipadan or Ligitan. Two of the three named islands, Tarakan and Nunukan, clearly lie to the south of the 4° 10' N parallel. There are, in fact, two islands of Nunukan, distinguished as East and West. Lying south of them, and between them and Tarakan Island, are a number of small islands very close inshore, such as Boekat, Espada, Mail, Schildred, Tirens, Tibu, Sadow and Pulo Bunju, and some others, even smaller. These were evidently "the small islands belonging to them" referred to in the Contract of 1850. There was certainly no reference to islands much further to the north-east (some 40-50 n.m. to the east of Sebatik) and closely associated with the coast of the Semporna Peninsula.

7.5. A further contract of vassalage was concluded between the Netherlands Indies and the Sultan of Bulungan on 2 June 1878.[5] In this contract it was provided for the first time that the latter's territory extended in the north-east up to Batu Tinagat (at 4° 20' N). But this is not to say that either the Dutch or the Sultan of Bulungan exercised any control in these northern territories. For example, in 1880 the Resident of the Southern and Eastern Division of Borneo reported that in "Berouw and Boeloengan... the trade with the inhabitants of the Sulu archipelago consists mainly of exchanging trade goods for kidnapped people, who are sold in our territory as slaves".[6] There were trading links between the Sulu Archipelago and its Borneo dependencies and Bulungan, but no element of political control on the part of Bulungan. And this situation did not change. As late as 1917 the then Resident reported that the Dutch administrative involvement only extended to the coastal area and the lower stream area of the Kajan River. The Tidoeng lands and other areas forming the northern parts of Bulungan, "remained virtually excluded from the exercise of authority".[7] The authoritative *Encyclopaedia of the Netherlands Indies* states that by that time nothing more than sketch maps existed of the South and Eastern Division of Borneo.[8]

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[5] See Annexes, vol. 2, annex MM 11.

[6] Memorandum of Transfer by Resident Meijer, 2 March 1880, microfiche ARA 267 1+2: extract in Annexes, vol. 3, annex MM 39.

[7] Memorandum of Transfer by Resident H.J. Grijzen, 3 September 1917,

7.6. When the Netherlands was informed of the 1878 grant by Sulu to Baron von Overbeck, its reaction was acquiescent. The Minister of Colonies stated the Dutch position in a Parliamentary reply in the following terms:

> "The north-east and north-west portions of Borneo have never been under our dominion. We have never disputed the authority of Spain over the dependencies of Sulu in the north-east portion of the island... We did not oppose the American undertaking in the north of Borneo, which was a forerunner of that of Baron Overbeck. What right and what reasons should we have to assume a hostile attitude towards the latter? If it were a question of a Settlement made in that island by the British Government we might appeal to the general tenour of the London Treaty of 1824 to show that a common occupation by England and Holland of the same island in the Indian Archipelago ought to be avoided. But as it appears this is simply a question of the establishment of a private Company in virtue of concessions which have been granted by native chiefs who are independent of our authority. Were our private or commercial interests injured thereby it might be affirmed that the Government should take measures to protect the interests of our country *even in districts which are not under the sway of the Netherlands*. But there is, as it appears, little reason to apprehend any such danger from the undertaking in question, and it would be difficult to prove that our rights have been infringed by the concessions which have been granted. This holds good at any rate as regards the Brunei concession. As far as the Sulu concession is concerned it is not quite certain whether the contracting parties are well

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microfiche ARA 272-1: extract in Annexes, vol. 3, annex MM 69, and see the sketch map, above, p. 32 for the locations mentioned.

[8] See J. Paulus (ed.), *Encyclopaedie van Nederlandsch-Indië*, vol. I ('s-Gravenhage/Leiden: Nijhoff/Brill, 2nd edn, 1917) p. 356: Annexes, vol. 3, annex MM 70.

> acquainted with the precise frontier-line of the Netherlands territory on the east coast of Borneo. With a view to preventing possible misapprehensions, orders have been issued for the Netherlands flag to be hoisted on the border (at the Batoo Tinagat Rock, situated at the mouth of the Tinagat River in 4° 19" north latitude and 117° 51" east longitude, according to the last survey) to be placed for the present under the protection of a cruizer, whilst the Sultan of Boloengau has been requested to maintain a Representative at this point on his side of the frontier-line in question."[9]

7.7. Subsequently, in relation to the proposed grant of the Royal Charter to the Company in 1881, the Dutch Minister in London made a formal reservation of rights, in the following terms:

> "It is with a view to avoiding any such misunderstanding that the King's Government desires, once for all, whilst abstaining from more detailed observations, to point out that the sovereignty of the Netherlands on the north-east of the Island of Borneo extends—
>
> 1. Over the region which, situated on the left bank of the Sibuco, constitute the territory of the ancient districts of Tadang, depending in their turn on Boelongan, a State tributary to the Netherlands;
>
> 2. Over the Islands of Tarrakan, Monockan [sic], and Sibittikh, with the lesser islands adjacent, and that these various territories cannot, therefore, have been ceded to Messrs. Overbeck and Dent."[10]

7.8. This reservation notwithstanding, when the Royal Charter was granted in August 1881,[11] it recited the original language of the Sulu grant of 1878 with its reference to territories and islands down to the River Sibuko. In the subsequent Dutch parliamentary debate, members expressed a range of views. Mr van der Hoeven noted that "to a great extent our establishments in Borneo are little more than nominal" and Mr Keuchenius was reported as having made a "a long speech in which, with reference to Borneo, he said that it was certainly very doubtful whether the Netherlands had any rights over the northern part of that island, and that at any rate, as appeared by a map executed some time since, the dominion of Holland did not extend to the territory which was the subject of the concession to Mr. Dent".[12] In reply the Minister of Foreign Affairs said that...

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[9] Extract from the Answer of the Minister of Colonies to Inquiries made by the Committee for the Second Chamber in their Preliminary Report on the Netherlands Indian Budget for 1880 (emphasis added). The Extract was attached to a letter from Mr Stuart, British Ambassador to the Netherlands to the Marquess of Salisbury, 24 October 1879: Annexes, vol. 3, annex MM 38.

[10] Count de Bylandt to Earl Granville, 8 April 1881: Annexes, vol. 3, annex MM 41.

[11] Annexes, vol. 2, annex MM 13.

> "He did not see how the Netherlands government could do more, and in his opinion they would have incurred an immense responsibility if they had provoked a difference on a question on which, even here in Holland, opinions differed so much, as appeared from the speech of M. van der Hoeven, whose opinion on colonial questions was so authoritative."[13]

7.9. In the subsequent correspondence with Britain, the absence of any Dutch claim to territory to the east of Batu Tinagat was equally clear. Reference may be made, for example, to a memorandum by Sir Edward Hertslet dated 9 January 1889, relating to the boundary dispute.[14] In that memorandum, Hertslet referred to a Dutch note of 22 December 1888, which formulated the Dutch claim as follows:

> "En partant du point extrême à l'ouest, Tandjong Datoe, jusqu'au point extrême à l'est, Batoe Tinigat, la chaîne de Montagnes formant la ligne de faîte qui sépare les eaux ayant leur embouchure sur le territoire Néerlandais des eaux qui se déversent le territoire de Sarawak, Brunei, et de la 'British North Borneo Company,' entre les deux points extrêmes susmentionnés."[15]

Hertslet stressed that "[t]he real question in dispute is the right of the Dutch to claim territory on the east coast as far north as Batoe Tinigat", and he went on to say:

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[12] Sitting of 6 December 1881: Annexes, vol. 3, annex MM 42.

[13] Ibid.

[14] PRO, FO 881/5822: Annexes, vol. 3, annex MM 43.

[15] Ibid., p. 6.

> "The Netherlands Government have raised the question as to the right of the Sultan [sic] of Brunei and Sulu, at the date of the Cessions made to the North Borneo Company, to cede any territory situated *south and west of Batu Tinigat*, which they say now forms part of the possessions of the King of the Netherlands; but it will be seen from what follows that in a Dutch Map published in Breda in 1857, and to all appearance under official sanction and authority, the territory north of the Atas River was stated to belong to the Sultan of Sulu, whose independence the Dutch Minister for Foreign Affairs (Baron de Leyden) admitted on the 9th October, 1880 (after the grant of the Sulu Concessions) was fully recognized by the Netherlands Government."[16]

In fact the Dutch Government had subsequently extended its claim on the east coast up to Batu Tinagat, and in this respect it no longer adopted the position expressed in the map of 1857. But what matters for present purposes is that the entire dispute related to the area *south and west* of Batu Tinagat, which was for the Dutch "[le] point extrême à l'est", the extreme easterly point of its claim. There was no question of the Dutch claiming any territory further to the north and east.

7.10. Subsequently, Britain offered to allow the Netherlands an enclave around Batu Tinigat, but this was rejected. As the Dutch negotiator Count de Bylandt reported: "an enclave of an uninhabited and useless piece of ground can in future perhaps bring a hornets' nest of all sorts of difficulties and conflicts, to which the Netherlands' flag, in my view, should not be exposed without unavoidable necessity."[17] Again, there was no question that territory or islands well to the east of Batu Tinagat would be conceded to the Dutch.

7.11. From the correspondence of this period, the following points emerge:

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[16] Ibid., p. 7 (emphasis added). On the accompanying map, the Atas River is shown at approximately 3° 20' N, opposite the island of Tarakan. No such river is shown on modern maps.

[17] Letter of Count de Bylandt to Minister of Foreign Affairs, 28 July 1889, ARA, *Min. of For. Affairs*, 2.05.03, inv no 134, no. 713 (translated from Dutch): Annexes, vol. 3, annex MM 47.

(1) The Dutch Government recognised that the territories on the coast of North East Borneo belonged to the Sultan of Sulu, and that, for the most part at least, the territory which was covered by the 1878 grant related to "districts which are not under the sway of the Netherlands".

(2) There was, according to the Dutch view, an area of overlapping claims in the south, but this concerned only the coast, not distant off-shore islands, and it related only to the region between the Sibuko River and Batu Tinagat.

(3) The only islands mentioned in this regard were "Islands of Tarrakan, Monockan [sic], and Sibittikh, with the lesser islands adjacent", which phrase clearly cannot include islands 50 miles to the east and north east, adjacent to a coast which the Dutch claim, even at its most extreme, did not cover.

(4) Authoritative Dutch sources denied that they had any valid claim to the disputed sector. In fact the eventual Boundary Treaty conceded Batu Tinagat and the northern half of Sebatik to Britain: i.e. it involved a *withdrawal* of the Dutch claim in the north, not a further extension well to the north east.

7.12. **Insert 14** is a sketch map, on the following page showing the area of overlapping claims, which area was divided by the Boundary Treaty of 1891.

C. Absence of Administration of the Islands by the Netherlands

7.13. There was never at any time any attempt by the Netherlands to establish a territorial administration over any point on the coast eastwards of Batu Tinagat, or to any islands eastwards of Sebatik. On the contrary, as will be seen in Chapter 9, official statements of the extent of Dutch territory in this sector were *reduced* following the 1891 Treaty, and the description of the territory of the Sultan of Bulungan was adjusted accordingly.[18]

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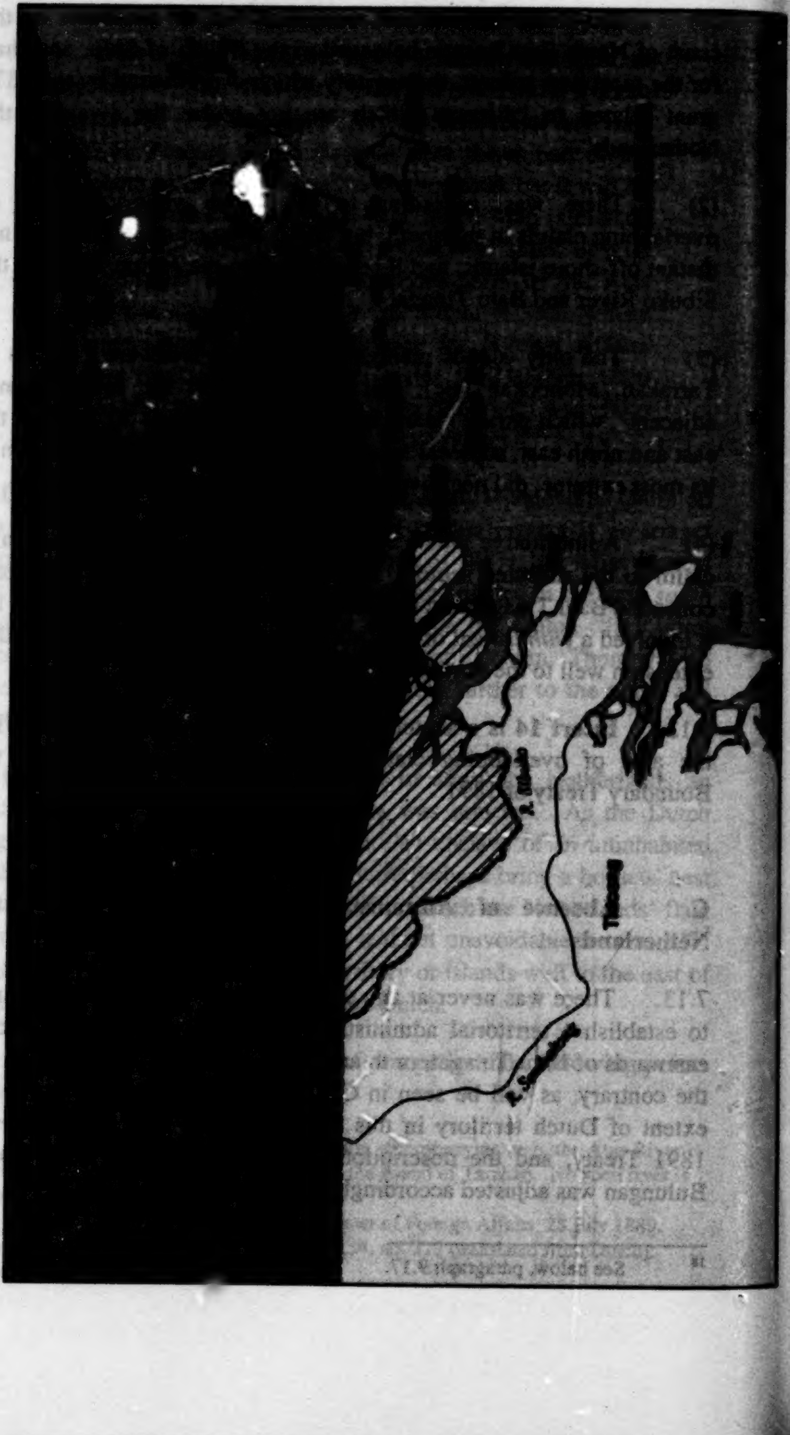
[18] See below, paragraph 9.17.

Insert 14

Area of Overlapping Dutch and British Claims


R. Sibuko
Tidoeng
R. Simengaris

7.14. Admittedly, there were occasional Dutch naval activities along the north-east coast of Borneo. Perhaps the most notable example of such activity was the voyage of the survey vessel *Macasser* in 1903. A manuscript report of its activity survives in the Dutch General State Archives.[19] The annex to the report, written by the commander of the *Macasser*, is headed "Bearings taken by *H.M.S. Macasser* on British North Borneo, 21-27 October 1903". Paragraph 2 focuses on the island of Sipadan and records various bearings in relation to that island, taken from an inshore island. By contrast the report notes that Ligitan and Danawan are located too far from the coast to allow for a reliable measurement. In referring to Ligitan and Sipadan along with other localities in the region which were unquestionably British, it would appear that the Commander of the *Macasser* treated all the islands mentioned as being part of British North Borneo.

7.15. Reference may also be made to the patrol of the Dutch torpedo boat *Lynx* in November 1921.[20] The inspection of the area by *Lynx* included, among other islands, Ligitan and Sipadan. As the report makes clear, the patrol was in direct response to concerns about alleged sea piracy by Bajaus from the Philippines. There is nothing in the report which indicates that Ligitan and Sipadan were considered Dutch territory, or under Dutch jurisdiction. The *Lynx* visited Sipadan seeking information about suspected "pirate" praus on Si Amil, but found only turtle egg collectors and no information. There are many instances in colonial history where the colonial powers cooperated in cross-border operations to suppress "piracy" in their border areas: the fact that the Commander of the *Lynx* communicated with British authorities suggests that this was a further example of cooperative action of this kind. The Dutch Commander was instructed to take any seized native praus to the Dutch island of Tarakan for investigation. The *Lynx*'s mission triggered discussions among Dutch authorities on the territorial sea boundary between the

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[19] See letter from Commander van Straaten to Dutch Naval Commander, Batavia, 26 November 1903, ARA, 4.HYDRO.31, inv. 3, no. 108: Annexes, vol. 3, annex MM 64.

[20] See the patrol report in Annexes, vol. 3, annex MM 71.

British North Borneo Company and the Netherlands Indies off the island of Sebatik. During these extensive discussions, no single reference was made to Ligitan or Sipadan.

7.16. There is no indication that the voyage of the *Lynx* involved the lodging of a territorial claim to islands visited (analogous, for example, to the formal acts performed by Lieutenant Boughter of the *Quiros*).[21] Nor was there any such follow up activity (e.g. the publication of maps proclaiming sovereignty over the area or diplomatic correspondence) as followed the voyage of the *Quiros*.[22] On the contrary, the Dutch Resident of South and Eastern Borneo, van Kempen, confirmed in 1923 that according to the Batavian Petroleum Company the mineral wealth of Sibatik was of no particular interest. Reporting on a recent mission to the northern part of the region, he stated:

> "The island itself is nearly uninhabited and the fisherman's trade, conducted along the shores, is not in the hands of the indigenous population of Boeloengan. When fishing takes place, it is performed by the well-known Badjaus from the Solo archipelago."[23]

The Resident described the area beyond the island of Sebatik in the following words: "In this particular area there are no islands; only the open sea".[24]

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[21] See above, paragraph 5.31.

[22] See above, paragraphs 5.25, 5.29 and 5.30.

[23] Mr van Kempen, Resident of South and Eastern Borneo, letter of 24 November 1923, in ARA, *Min. van Kol., Openbaar Verbaal*, 1901-1952, 2.10.36.06, inv. no. 2637, no. 11: Annexes, vol. 3, annex MM 73.

[24] Ibid.

D. Absence of Protest by the Netherlands in relation to British Administrative Acts concerning the Islands

7.17. In addition to the failure of the Netherlands to take any steps itself to administer the islands, it did nothing to protest at their administration by North Borneo. In particular, there was no protest or other action taken by the Netherlands on a number of occasions when it might have been expected to be aware of developments adversely affecting its pretended interest in these islands.

7.18. For example, as far as the record shows, there was no protest at any of the following transactions:

(a) The Protocol of 1885 between Britain, Germany and Spain;[25]

(b) The Spain-United States Convention of 1900, ceding to the United States islands which included the two islands in dispute;[26]

(c) The voyage of the *U.S.S. Quiros* in 1903, and the publication by the U.S. Hydrographic Office of the map "Northern Shore of Sibuko Bay";[27]

(d) The 1907 Exchange of Notes and the map attached thereto;[28]

(e) Administrative acts by North Borneo affecting the islands in the whole of the period following the grant of 1878, including the licensing of boats frequenting the islands, the licensing of turtle egg collection and the establishment of bird sanctuaries;[29]

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[25] See above, paragraph 5.18.

[26] See above, paragraph 5.22.

[27] See above, paragraphs 5.25, 5.27.

[28] See above, paragraph 5.38.

[29] See above, paragraphs 6.6, 6.11, 6.24.

(f) Such publications as the official British report in 1923 on "Commercial Sea Products from the Coast of British North Borneo";[30]

(g) The inclusion of Sipadan as a native reserve for the collection of turtle eggs;[31]

(h) The proclamation in 1933 of a bird sanctuary on Sipadan;[32] and

(i) The publication of Admiralty chart 2660B, showing the boundary across Sebatik stopping at its east coast,[33] as well as the other maps referred to in detail in Chapter 10.

E. Absence of Administration of the Islands by Indonesia after Independence

7.19. On becoming independent, Indonesia succeeded to the position of the Netherlands.[34]

7.20. Indonesia did not include Ligitan and Sipadan within the area of its territorial and archipelagic waters as proclaimed in 1960. By Act No. 4 of 18 February 1960,[35] Indonesia identified the location of the points of baselines of Indonesian waters. Lines joining these points in the relevant area do not embrace Ligitan and Sipadan, nor does the 12 nautical mile maritime belt constructed upon those lines. This can clearly be seen from the map referred to in Article 2 of the Act and annexed to it.[36] The importance of this Act as a statement of

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[30] See above, paragraph 6.17.

[31] See above, paragraph 6.16.

[32] See above, paragraph 6.24.

[33] See below, paragraph 10.6.

[34] Indonesia proclaimed its independence on 17 August 1945. The transfer of sovereignty by the Netherlands is dated 27 December 1949.

[35] Annexes, vol. 4, annex MM 107.

[36] See Annexes, vol. 5, Map 7.

Indonesia's claim to archipelagic and territorial waters and, hence, by clear implication, as evidence of the absence of a claim to the islands outside those waters, is indicated by the concluding sentence of the Act: "In order that the Act be known to everybody whomsoever it is instructed that this Act be promulgated by publication in the Government Gazette".

7.21. So far as any pertinent Indonesian oil concession in the area is concerned, the northern limit of the northern-most Indonesian license of which Malaysia has any notice is 30' south of the 4° 10' N line. That grant does not cover Sipadan since the northern limit of the eastern boundary of the grant to JAPEX appears to lie west of Sipadan.[37]

F. Absence of Protest by Indonesia in relation to British and Malaysian Administrative Acts concerning the Islands

7.22. Like the Netherlands before it, Indonesia failed to protest at the continuing administration by Britain, and then by Malaysia, of the islands it now claims. Indonesia remained silent at the time of the construction of a light tower on Sipadan, publicity to which was given both in the Colony of North Borneo Annual Reports for 1960 and 1961 and in Notices to Mariners in 1962 and 1963.[38] Nor, for example, was there any reservation of rights over the two islands at the time of decolonization in 1963, when Sabah became a component state of Malaysia.

G. Conclusion

7.23. The record demonstrates a complete absence of actual administration or of any other acts, by the Netherlands or by Indonesia, from the earliest times to 1969 or subsequently. The record of the conduct of the parties is wholly inconsistent with the Indonesian claim to these islands. Further, the absence of any protest,

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[37] See Annexes, vol. 4, annex MM 114.

[38] See above , paragraphs 6.27, 6.28.

either by the Netherlands or Indonesia, demonstrates their acquiescence in British and Malaysian conduct in relation to the islands. That acquiescence is clearly inconsistent with the claim to sovereignty that Indonesia now makes.

PART THREE

Chapter 8

THE 1891 BOUNDARY TREATY DOES NOT SUPPORT INDONESIA'S CLAIM TO LIGITAN AND SIPADAN

A. Introduction

8.1. It appears from the diplomatic negotiations mentioned above[1] that Indonesia founds its claim to the two islands primarily upon the 1891 Boundary Treaty. Accordingly, Malaysia will offer some observations on the Treaty, without prejudice to its position in relation to such arguments as Indonesia may in due course develop in the present proceedings.

8.2. It will be shown in this Chapter that nothing in the 1891 Boundary Treaty, or in the *travaux préparatoires* or in other materials to which resort may be had in interpreting treaties, supports the Indonesian claim. Rather, the ordinary and natural interpretation of the Treaty, and relevant rules of law, plainly refute it. Moreover it will be shown in Chapter 9 that neither the subsequent ratification process of the Treaty nor its implementation (in particular through the Demarcation Agreement of 1915) support the Indonesian claim. Indeed, if the 1891 Boundary Treaty stands in need of interpretation in this respect, the 1915 Agreement is an authoritative interpretation of Article IV in the contrary sense to that advocated by Indonesia.

8.3. The basic principle of treaty interpretation applicable to the present case is that contained in Articles 31 and 32 of the Vienna Convention on the Law of Treaties, which, though not formally applicable to treaties made before 1982, have been accepted as relevant to the interpretation of all treaties. In particular, as the Court said in the *Case Concerning the Territorial Dispute (Libya/Chad)*:

> "Interpretation must be based above all on the text of the treaty... [I]n accordance with customary international

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[1] See above, paragraph 4.6.

> law, reflected in Article 31 of the 1969 Vienna Convention on the Law of Treaties, a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its object and purpose."[2]

Similarly, in the *Case relating to the Arbitral Award of 31 July 1989 (Guinea-Bissau/Senegal)* the Court said:

> "The first duty of a tribunal which is called upon to interpret and apply the provisions of a treaty, is to endeavour to give effect to these in their natural and ordinary meaning in the context in which they occur. If the relevant words in their natural and ordinary meaning make sense in their context, that is an end of the matter. If, on the hand, the words in their natural and ordinary meaning are ambiguous or lead to an unreasonable result, then, and then only, must the Court resort to other modes of interpretation, and seek to ascertain what the parties really did mean when they used these words."[3]

B. The Interpretation of the 1891 Boundary Treaty in Accordance with the Applicable Rules of Treaty Interpretation

8.4. Article IV of the 1891 Boundary Treaty consists of a single sentence, which reads as follows:

> "From 4° 10' north latitude on the east coast the boundary line shall be continued eastward along that parallel, *across* the island of Sebittik; that portion of the island situated to the north of that parallel shall belong unreservedly to the British North Borneo Company, and the portion south of that parallel to the Netherlands."[4]

In the equally authoritative Dutch text of the Treaty, the word "across" in Article IV is rendered by its Dutch equivalent "*over*", and not by the Dutch word "*voorbij*" ("beyond").

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[2] I.C.J. Reports 1994, p. 22, para 41.

[3] I.C.J. Reports 1991, p. 69, para 48.

[4] Annexes, vol. 2, annex MM 17 (emphasis added).

8.5. Indonesia has hitherto contended that the boundary line described in Article IV not only extends across the island of Sebatik, in the sense of stretching from the island's west coast to its east coast, but also stretches beyond the east coast seawards along that parallel of latitude to an undefined point said to be at least some 50 miles distant. Indonesia supports this interpretation of the text on the basis of a Netherlands Government map of 1891, hereinafter referred to as the "internal Dutch map".[5]

8.6. It should be stressed that the 1891 Boundary Treaty itself refers to no map, and no map was annexed to it. The map has never been printed in any treaty series as associated with the 1891 Boundary Treaty, and no English-language version of the map is known to exist. It is neither part of the text of the Treaty, nor of its *travaux préparatoires*. Malaysia will accordingly deal, in this Chapter, with the meaning of the words actually used in the Treaty and subsequently, in Chapter 9, with the internal Dutch map.

8.7. The preamble to the Treaty states clearly its object and purpose. The Parties declared themselves to be...

> "Desirous of defining the boundaries between the Netherlands possessions in the island of Borneo and the States in that island which are under British protection, have resolved to conclude a Convention to that effect."

In 1891 the distinction between a boundary treaty and an allocation treaty was well known. A boundary treaty established a boundary line between adjacent areas of land territory. An allocation treaty described a line of division on the sea, not for the purpose of dividing maritime areas, but for the purpose of allocating to one or the other State sovereignty over islands on one or other side of the line.

8.8. It is quite clear, when the 1891 Treaty is read as a whole, that it was intended to be a land boundary treaty. This follows both from the words of the Preamble, quoted above, and from the opening words of Article I: "The boundary between the Netherlands possessions in Borneo and those of the British-protected States in the same island..." There is nothing in the Treaty to suggest that it was intended to divide sea areas or to allocate distant off-shore islands. Article I provides that the boundary "shall start from 4° 10' north latitude on the east coast of Borneo", while Article III provides for the extension of the line to Tanjung Datu on the west coast of Borneo. The Treaty thus provides for the territorial division of the island of Borneo from its east coast to its west coast. In addition, Article IV deals with the problem posed by the presence of the island of Sebatik which lies so close to the coast of Borneo as to be virtually part of it. It would not be in accord with the manifest object and purpose of the Treaty to interpret Article IV as serving the additional purpose of allocating title to the Netherlands in respect of islands south of a line in the sea extending indefinitely eastwards from the east coast of Sebatik along the latitude of 4° 10' N.

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[5] Annexes, vol. 5, Map 2.

8.9. Article IV provides that the boundary line shall continue eastward along the parallel of 4° 10' N. This means that the extension starts from the east coast of Borneo and runs eastward across Sebatik, in contrast with the main part of the boundary line, which starts at the same point, but runs westwards. Article IV is thus a unique provision introduced solely to deal with Sebatik and, by implication, the narrow belt of water between Sebatik and the main island of Borneo, which could be assimilated (then and now) to internal waters. In this context it should be recalled that at the relevant time neither Britain nor the Netherlands claimed to exercise sovereignty beyond the three-mile belt of territorial waters.

8.10. Specifically, Article IV provides that "...the boundary line shall be continued eastward along that parallel, across the island of Sebittik". Indonesia contends that the word "across" means that the line crosses Sebatik on its way from the east coast of Borneo to some more distant terminus in the sea, not specified in the Treaty but alleged to be at least 50 miles to the east of Sebatik. If the line was much shorter, it would affect no islands at all, since none lie to the east of Sebatik before Sipadan itself is reached.

8.11. This is not the plain and ordinary meaning of the words "across the island of Sebittik". These words mean, in English and in Dutch, a line that crosses Sebatik from the west coast to the east coast and goes no further. This meaning accords with the usual primary definition of "across" and, in Dutch, "*over*" given in dictionaries.

8.12. This is clearly confirmed by the words following the semi-colon after the words in question: "that portion of the island situated to the north of that parallel shall belong unreservedly to the British

North Borneo Company, and the portion south of that parallel to the Netherlands". The fact that Article IV was drafted as a single sentence divided into two parts only by a semi-colon indicates the close grammatical and functional connection between the two parts. The second part can only be read as referring to the island of Sebatik itself, and this supports the understanding that the references to the island in the first part are likewise limited to the island itself. A contextual interpretation of Article IV produces exactly the same result as the literal interpretation of the word "across" ("*over*"): that is to say, it is limited in its scope to the island itself.

C. The *Travaux préparatoires* of the 1891 Boundary Treaty confirm the Literal and Contextual Interpretation of Article IV

8.13. In the circumstances set out above, resort to the preparatory work leading up to the conclusion of the 1891 Treaty is not necessary. The meaning of the text, as derived from the words used in their context and in the light of their object and purpose, is quite clear. It is impermissible to refer to the *travaux préparatoires* in order to support any other meaning than that which emerges from the interpretation of the text itself, since the language is neither "ambiguous" nor "obscure" (Vienna Convention on the Law of Treaties, Article 32 (a)), and the meaning derived from the interpretation of the text is certainly neither "manifestly absurd" nor "unreasonable" (Article 32 (b)). However it is permissible to refer to the *travaux préparatoires* "in order to confirm the meaning resulting from" textual and contextual interpretation, and in fact the *travaux préparatoires* do provide such confirmation.

8.14. The relevant negotiations between the British and Dutch Governments took place principally during the period 1889-1891. At that time the Dutch Government relied on the territorial claims of the Sultan of Bulungan under the Contracts of 1850 and 1878.[6] The British Government represented the interests of the British North Borneo Company, which derived its rights from the Sultan of Sulu in 1878, as expressly recognised by Spain in 1885, and from its actual administration of the islands adjacent to the coast.

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[6] See above, paragraph 7.7.

8.15. The question is whether the preparatory work of the 1891 Treaty revealed any trace of a claim by the Netherlands on behalf of the Sultan of Bulungan to the island of Ligitan and Sipadan and an acknowledgement of that claim by the British Government. The answer is emphatically: No.

8.16. At the time of the negotiations, the Dutch Government took the position that the northern limit of the territories of the Sultan of Bulungan was at Batu Tinagat, a location on the northern shore of Sibuko Bay, just to the north east of Sebatik Island and a few miles east of Tawau (see Insert 14, above, page 86). This location was more than 40 n.m. to the west of Sipadan and even further from Ligitan. At that time there was no suggestion by the Netherlands that those islands, or any others close to the northern shore of Sibuko Bay, adhered to the mainland territory of the Sultan of Bulungan, or that they belonged, or should in future belong, to the Netherlands Indies.

8.17. At the first meeting of the Joint British–Dutch Negotiating Commission on 16 July 1889, the British delegates referred to the following statement by its Acting Consul-General, Mr. Treacher:

> "7. That, at the time of the Dent and Overbeck Concessions, Acting Consul-General Treacher reported that the territory mentioned in the grants made to them was 'actually under Sulu rule, and occupied by Sulu Chiefs'."[7]

In response thereto the Dutch delegation said on 19 July 1889:

> "7. 'Admitting that the statements of Mr. Treacher should be correct in so far as the regions are concerned *to the eastward of Batoe Tinagat*, they certainly are incorrect as to the disputed district which was not occupied by Sulu Chiefs."[8]

The important part of this passage is the admission by the Dutch representative that the regions to the eastward of Batu Tinagat were actually under Sulu rule – thereby excluding the rule of the Sultan of Bulungan, from which it necessarily followed that the Dutch were not claiming those eastern areas on his behalf.

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[7] Annexes, vol. 3, annex M 44.

[8] Annexes, vol. 3, annex MM 45 (emphasis added).

8.18. Consistent with this Dutch position the consideration of the boundary on the coast never extended to cover the islands east of Batu Tinagat. This appears clearly, for example, from the records of the meeting of 27 July 1889.[9] When, on 2 April 1890, the Netherlands representative, Count Bylandt, indicated the Dutch willingness to accept a compromise line "across the whole area of the Island [of Borneo] from a point to be established on the east coast until Tandjong – Datoe on the west coast", the starting point on the east coast of Borneo was to be Broershoek, the point eventually adopted by the 1891 Boundary Treaty for this purpose. The Dutch also proposed at the same time, but in a separate paragraph, that "the island of Sebittik remains within the Netherlands".

8.19. The Court of Directors of the Company submitted its comments on the Dutch proposal on 22 July 1890. It proposed that the whole of Sebatik Island be retained by the Company:

> "This seems to the Court a fair arrangement, as they are of opinion that the Island of Sebattick—forming as it does one side of the channels into which all the rivers between Broershoek and Batu Tinagat flow—should be under their jurisdiction; but should it unfortunately not meet with the consent of the Netherland Government, they would be prepared to accept a continuation of the parallel 4° 10' north latitude across the island *to the east corner*, which would give to each party all the portion lying opposite its own territory".[10]

In adopting and communicating these views to the Dutch Government on 13 August 1890, the British Government stated the position in relation to Sebatik as follows:

> "...the boundary-line should run along the parallel of 4° 10' eastward, as well as westward, from Broershoek, so as to divide the island equally between themselves and the Netherlands Government."[11]

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[9] Annexes, vol. 3, annex MM 46.

[10] FO 881/6071, at p. 56; Annexes, vol. 3, annex MM 48 (emphasis added).

[11] Annexes, vol. 3, annex MM 49.

The proposal made by the Netherlands to the British Government on 2 February 1891 took a similar approach.[12]

8.20. A relevant consideration in the negotiations was that each party should have its own means of access to the waters lying on its side of the line between Sebatik and the mainland. This was perhaps the decisive factor which led to the island of Sebatik being divided into two along the same line as the adjacent mainland. But that consideration had nothing to do with any islands further to the east, and the record of the discussions shows that no consideration whatever was given to those islands.

8.21. For these reasons, it is impossible to read into this mention of the equal division of Sebatik Island in the *travaux préparatoires* of the 1891 Boundary Treaty any idea that the line so dividing it should extend eastward into the sea for an indefinite distance so as to allocate Ligitan and Sipadan to the Netherlands. As the *travaux préparatoires* reveal, the line under discussion:

(1) was a boundary line, not an allocation line (and certainly not both);

(2) was adopted as a compromise only *after* the 4° 10' N line was agreed as a boundary line for the mainland of Borneo; and

(3) related only to the island of Sebatik and not to other islands well to the east.

The *travaux préparatoires* thus confirm the interpretation of Article IV which derives from the interpretation of the actual words considered in their context and in the light of their object and purpose.

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[12] Annexes, vol. 3, annex MM 50.

D. In any event, the 1891 Boundary Treaty could not have had the effect of allocating to the Netherlands islands belonging to Spain

8.22. Finally, even if (*quod non*) the 1891 Boundary Treaty had purported to allocate to the Netherlands islands which were well to the east of Sebatik, that bilateral allocation could not have had any consequence for islands which at that time belonged to Spain. *Nemo dat quod non habet*: Britain could not have agreed to cede to the Netherlands islands which fell outside the three marine league line contained in the 1878 Sulu grant, a line expressly and publicly recognised by Britain and Spain in the Protocol of 1885. This is a further reason for rejecting the Indonesian argument based on the 1891 Boundary Treaty.

Chapter 9

THE IMPLEMENTATION OF THE 1891 TREATY AND THE DEMARCATION AGREEMENT OF 1915 CONFIRM MALAYSIA'S POSITION

A. Introduction

9.1. In the period subsequent to the conclusion of the 1891 Boundary Treaty, two episodes need to be considered, for the light they shed on the Indonesian contention that Article IV allocated Ligitan and Sipadan to the Netherlands (and thus, eventually, to Indonesia). They are:

(1) the process of ratification and implementation of the 1891 Boundary Treaty by the Netherlands, and in particular the internal Dutch map; and

(2) the agreed demarcation of the boundary, which occurred in 1915.

B. Dutch Ratification of the 1891 Treaty, the Internal Dutch Map and Subsequent Dutch Actions implementing the Treaty

9.2. The 1891 Convention required ratification, and in accordance with Dutch constitutional procedures it was submitted to the Dutch Parliament for approval. A number of documents were submitted to the Parliament in that context, and subsequently a number of actions were taken by the Netherlands in the implementation of the Treaty.

(1) The Internal Dutch Map

9.3. The first item which falls to be considered is the internal Dutch map. This was attached to the Government's "Explanatory Memorandum No. 3", dated 25 July 1891, which was presented to the Netherlands Parliament during the procedure for the ratification of the 1891 Treaty. This map carries on it, among other lines, one coloured

red which extends eastward into the sea for a distance of approximately 50 miles from the point on the east coast of Sebatik where it is reached by the parallel of 4° 10′ N.[1] The map legend describes the red line as the boundary line established in the 1891 Convention. In the bilateral discussions between Indonesia and Malaysia,[2] Indonesia has relied very heavily on this map as showing the intention of the parties in 1891 to allocate all islands south of the line to the Dutch East Indies. The map does not support such an extravagant interpretation, *inter alia* for the following reasons.

9.4. First, and despite suggestions sometimes made to the contrary, the map was not attached to the Treaty and is not referred to either in the Treaty itself, or in the *travaux*. The map was an entirely unilateral document prepared by the Netherlands Government for illustrative purposes in the Netherlands parliamentary proceedings.

9.5. In fact the very first draft of the map exists. It is reproduced on page 104 as **Insert 15**. This first hand–drawn version was apparently prepared on 23 June 1891, which was three days after the signature of the 1891 Boundary Treaty. Thus it is quite clear that the map, which exists only in the Dutch language, was not an agreed map, was never discussed between the parties, and was never formally delivered to the British negotiators. Indeed it was not even in existence at the time of the conclusion of the Treaty.

9.6. The Treaty itself clearly indicates that no map was attached or agreed, since the Parties expressly foresaw that the exact positions of the boundary line had still to be determined. Article V provided:

> "The exact positions of the boundary line, as described in the four preceding articles, shall be determined hereafter by mutual agreement, at such time as the Netherlands and British Governments may think fit."

The "four preceding articles" include Article IV relating to the line across Sebatik. So it is evident that "the exact position" of the boundary line prescribed in that article had still to be determined.

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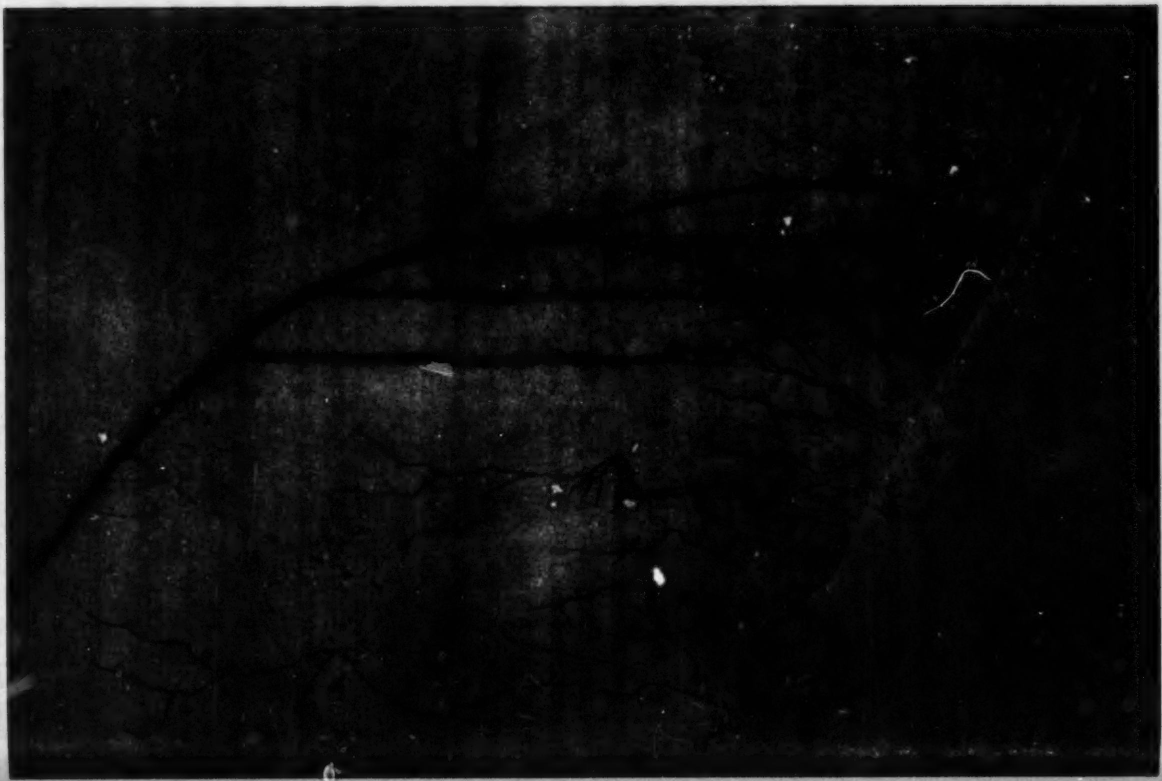
[1] See Annexes, vol. 5, Map 2.

[2] See above, paragraph 4.6.

Insert 15

First Draft of the Internal Dutch Map



Source: General State Archives, *Min of Col 1850-1900*, 2.10.02, inv. no. 6202 (actual size)

9.7. Secondly, the original draft of the internal Dutch map does not show the islands in dispute; neither does the final version attached to the Explanatory Memorandum, which shows only P. Mabul to the north of the line.

9.8. Thirdly, the 4° 10′ N line, coloured blue on the hand-drawn map shown on page 98 above, is drawn only a short distance into the sea, just past the location of Batu Tinagat, which was the last point on the coast claimed by the Netherlands. In other words, the original version of the line was quite different, much shorter, and certainly did not have the purpose now attributed to it. It was only in its printed version that the line (coloured red) was so extended.

9.9. Nothing was said at the time to justify or explain the extended line on the internal Dutch map, let alone to establish that the line so drawn was agreed by or opposable to Britain. On the contrary the Explanatory Memorandum, to which the final version of the internal Dutch map was attached, contradicts the argument which is now drawn from it.

(2) The Dutch Explanatory Memorandum

9.10. The text of the Explanatory Memorandum, in a translation provided by Malaysia, is set out in **Annexes, vol. 4, annex MM 51.** The Explanatory Memorandum briefly recounts the history of British acquisitions of "the Northern part of Borneo which was not under our authority". It notes that the Dutch Government felt unable to resist the proclamation of a British protectorate over North Borneo in 1888 "because no rights of the Dutch have been assaulted and no stipulations of the treaty have been violated and to broach again the interpretation of the treaty of 1824 would surely not yield any result". It notes further that the Sulu grant of 1878 extended to the Sibuko River, whereas the Dutch boundary "according to the contract made with the sultan of Boelongan at the coast is formed by the Batoe Tinagat and further inland by the Tawao river". Thus the boundary dispute is described – with complete accuracy – in the Explanatory Memorandum as concerning "the disputed area between the Tawao and Siboekoe Rivers".

9.11. The following additional points should be made about the Explanatory Memorandum:

(a) It made no mention of Ligitan and Sipadan, or indeed, any islands at all further east than Sebatik.

(b) It described the dispute exclusively as a land boundary dispute: i.e. "a border arrangement which she [sc. the Dutch Government] had wished for the whole width of Borneo from the Eastern to the Western Coast".

(c) It candidly admitted the weakness of the Dutch claim to the disputed area:

> "A local inspection carried out by the deputy assistant resident of Koetei revealed that the Bajaus who live on the islands located at the North-Eastern coast of Borneo, which belong to the sultanate of Solok, are still continuously collecting forest products in the disputed area without being concerned about the Sultan of Boeloengan whatsoever. Because of this and also because of the absence of any document about the stipulation of the boundary between the sultanates of Boeloengan and Solok, it was considered very difficult indeed to determine the extent of the area of Boeloengan."

And, referring to the different lines shown on the internal Dutch map, it went on to say that:

> "If a comparison of these different lines appears to give the impression that the Dutch have given up a part of its territory, we should not forget that before there was a dispute about the boundary, the Dutch Government has never paid much attention to her territory at the Eastern coast of Borneo which was unknown to her and moreover totally uninhabited; that the rights of the Sultan of Boelongan on the disputed area cannot be called indisputable and finally that instead of a highly uncertain boundary through a stretch of mostly inaccessible land which was unknown, there is now accepted a quite correctly described borderline which makes an end to all difficulties in the future, not only concerning the part of Borneo which was connected

> with the border dispute but also concerning the whole island."

(d) As to the part of the line relating to Sebatik, the Memorandum said nothing at all about any supposed off-shore allocation line:

> "Therefore from this side there is the preference to have the island which is totally uninhabited parted in two with the parallel of 4° 10' as the boundary between the two parts; because of this partition the Dutch and the British North Borneo Company would have that part of the island which consists of the bank of the fairway along which either of them has to reach the coastal area they possess; this is fair and rational."

9.12. To summarise, not only is the Explanatory Memorandum totally silent on any question of an allocation line or off-shore islands; it is clearly and expressly concerned only with issues of the determination of a land boundary on Borneo and on Sebatik ("the boundary through the disputed area at the Eastern coast").

9.13. Following the tabling of the Explanatory Memorandum, a committee of five Members of the Parliament was asked to look into the issue. As regards the agreed boundary line on Sebatik, the committee report read:

> "The division of the island of Sebatik met with reservations by some members of the committee. They feared that as a consequence new border disputes would arise. But this opinion was contradicted by other members, who, taking the nature of the island into consideration, did not fear border disputes and were of the opinion that it could be important to keep at least part of Sebatik, which by its location controls the access to the river mouths behind it."[3]

9.14. A further "Memorandum in Response", submitted by the two Ministers on 20 February 1892,[4] again indicated their view that the function of the line across Sebatik was limited to the "division of the island." Their specific comment on Article V of the Treaty is also pertinent:

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[3] *Handelingen der Staten-Generaal, Tweede Kamer. Bijlagen. 1891-1892*, no. 43, no. 3, 2 December 1891, p. 3. Translation provided. See Annexes, vol. 3, annex MM 52.

[4] Annexes, vol. 3, annex MM 53.

> "During the above-mentioned survey conducted on the east coast of Borneo by Dutch and British marine officers, the border points at Broershoek and on both shores of the island of Sebittik were indicated on the territory by means of poles."

9.15. On 8 March 1892 the Second Chamber of the Dutch parliament approved the Convention. Instruments of ratification were exchanged on 11 May 1892.

(3) The Dutch Statute implementing the 1891 Treaty

9.16. In this context, note may be taken of the language of the Netherlands statute of 20 May 1892, in which the Treaty was described as "defining the borders separating Dutch possessions on the island of Borneo and the British Protectorate States on the said island". Clearly, there was no thought here of the boundary affecting title to islands lying more than 40 n.m. seawards to the east, which had never been claimed by the Netherlands and regarding which no dispute existed.

(4) Modification of the boundaries of Bulungan to conform to the 1891 Boundary Treaty

9.17. Following the ratification of the 1891 Treaty, the claimed boundaries of the Sultanate of Bulungan were amended to bring them into line with the Treaty. The new official description of the boundaries was signed on 19 June 1893 by the Dutch Resident of the South and East Division of Borneo and certified by the [Dutch] Government Secretary and the Secretary-General of the Ministry of the Colonies.[5] It specifically includes within the territories of Bulungan:

> "The Islands of Tarakan and Nanoekan and that portion of the Island of Sebitik situated to the south of the above boundary-line, described in the 'Indisch Staatsblad' of 1892, no.114, belong to Boeloengan, as well as the

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[5] Annexes, vol. 3, annex MM 54.

> small islands belonging to the above islands, so far as they are situated to the south of the boundary-line last mentioned."

The last phrase, referring to "the small islands belonging to the above islands", reflects the same words used in the earlier agreements of 1850 and 1878, which have been considered in paragraphs 7.4-7.5 above. Again there is no indication at all of a Dutch view that the 1891 Treaty allocated Ligitan and Sipadan to the Netherlands Indies or to the Sultanate of Bulungan.

C. Subsequent Agreements between the Parties: the 1915 Demarcation Convention

9.18. As foreseen in Article V of the 1891 Treaty, the Parties in due course began the process of reaching "mutual agreement" on "the exact positions of the boundary-line". At some date prior to December 1914 (probably in 1901),[6] beacons were fixed by an Anglo-Dutch Commission on the points where the parallel of 4° 10' N latitude north met the west and east coast of Sebatik. But in 1910 the Netherlands Government indicated that it wished to proceed as soon as feasible to the indication on the ground of the agreed border. The procedure got under way in 1912 and the Commission of two Dutch and two British representatives reported on 17 February 1913.[7] They stated in paragraph 3 that they had "determined the boundary – as described in the Boundary Treaty", and they then proceeded to describe the boundary in detail "as taking the following course". They began at the eastern end:

> "Traversing the island of Sibetik, the frontier line follows the parallel of 4° 10' north latitude, as already fixed by Article 4 of the Boundary Treaty and marked on the east and west coasts by boundary pillars."

From these words alone it is clear that the termination of the boundary on the east coast of Sebatik had already been marked by pillars, the location of which was not questioned. There is no mention at all of any seaward projection eastward of the line across

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[6] See the Dutch letter of 7 April 1914: Annexes, vol. 3, annex MM 68.

[7] See Annexes, vol. 2, annex MM 25.

Sebatik. Such a thought evidently never entered the heads of the Commissioners, and this is confirmed by the line drawn on the map accompanying their Report, which they all signed without reservation.[8] As can readily be seen, the boundary line marked on the map starts on the east coast of Sebatik and runs westwards. The line in the sea eastward of Sebatik is no more than the line marking 4° 10' N. It is identical in character with the other lines marking 10' intervals.

9.19. On 6 May 1914 the Netherlands and British Commissioners formally agreed as follows:

> "In accordance with instructions received from our respective Governments we have taken as the boundary the straight line between the granite pillars on the East and West of Sebatik Island, which were erected in 1901 by a Commission consisting of H.M. Macassar and H.M.S. Waterwitch and upon that line we have erected 16 concrete pillars."[9]

If it were possible for any doubt to remain regarding the use of the word "across the Island of Sebittik" in Article IV, it must be completely put to rest by the words "we have taken as the boundary the straight line between the granite pillars on the East and West of Sebatik Island".

9.20. The Report of the Commissioners and the accompanying map were formally confirmed by an Agreement between the Netherlands and British Governments signed on 28 September 1915, which was published.[10] Attached to that Agreement is a signed map of Sebatik and the adjacent coastal areas to the west,[11] which clearly shows that the boundary line stops at the east coast of Sebatik. This is entirely consistent with the language of the 1891 Treaty and with the proceedings of the Demarcation Commission.

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[8] See Annexes, vol. 2, annex MM 25.

[9] See Annexes, vol. 2, annex MM 26.

[10] See Annexes, vol. 2, annex MM 27.

[11] See Annexes, vol. 5, Map 23.

D. Conclusion

9.21. According to Article 31 of the Vienna Convention on the Law of Treaties, in the interpretation of a treaty:

> (3) There shall be taken into account, together with the context:
>
> (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
>
> (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation...

It is clear from Article 31 (3) that the only subsequent material which can be taken into account in the interpretation of a treaty is that which evidences an agreement between the parties as to the interpretation of the treaty. Indeed such an agreement may be authoritative. On the other hand purely unilateral or internal practice by one party to a treaty is not opposable to the other party and may not be used to support an interpretation adverse to that party, *a fortiori* if that material comes into existence after the conclusion of the treaty.

9.22. Thus, the 1915 Demarcation Agreement is certainly relevant in the interpretation of the 1891 Boundary Treaty and, as seen above, it definitively confirms the conclusion that the 1891 Treaty did not establish any allocation line in the seas to the east of Sebatik. By contrast the internal documents and discussions within the Dutch Government and Parliament do not have the same status. They were not agreed documents. They do not constitute part of the *travaux* of the 1891 Treaty. They were produced after the Treaty had been concluded. In accordance with Article 31 (3) of the Vienna Convention, they may not be referred to in the interpretation of that Treaty.

9.23. Thus, *even if* the internal Dutch documents and the internal Dutch map established clearly that the Dutch Government thought that the 1891 Treaty had established an allocation line 50 n.m. to the east of Sebatik, the documents and map would not be admissible to establish the interpretation of Article IV of the Convention in that

sense. Strictly speaking, they are legally irrelevant to the present dispute.

9.24. But in fact (and for whatever the fact may be worth), the internal documentation establishes that the Dutch Government and Parliament were under no such misapprehension. On the contrary it is clear from the materials that, like the British Government, they were concerned only with the settlement of a land boundary dispute concerning "the disputed area between the Tawao and Siboekoe Rivers". It is that dispute which the 1891 Boundary Treaty settled, leaving to British North Borneo all areas to the north and east, and all off-shore islands except for the southern part of Sebatik and its immediately adjacent small islands. That is the beginning, and the end, of the story.

PART FOUR

Chapter 10

THE MAP EVIDENCE SUPPORTS MALAYSIA'S SOVEREIGNTY

A. General Principles

10.1. Malaysia now turns to examine the maps and charts pertinent to the case. In this connection the following observations of this Court in the *Frontier Dispute (Burkina Faso/Mali) Case* are relevant:

> "...maps merely constitute information which varies in accuracy from case to case; of themselves and by virtue solely of their existence, they cannot constitute a territorial title that is a document endorsed by international law with intrinsic legal force for the purpose of establishing territorial rights... Except in this clearly defined case [where maps are annexed to an official text of which they form an integral part] maps are only extrinsic evidence of varying reliability or unreliability which may be used, along with other evidence of a circumstantial kind, to establish or reconstitute the real facts."[1]

10.2. Two maps have already been considered in detail. The first is the internal Dutch map of 1891, so heavily relied upon by Indonesia. As has been demonstrated in Chapter 9, there is nothing in this map that supports the Indonesian argument that this map shows that the words "eastwards across the island of Sebatik" mean that the boundary projects seaward for approximately 50 nautical miles.

10.3. The second map is that attached to the 1913 Boundary Commission Report, approved and accepted as binding by both the Netherlands and British in the 1915 Agreement.[2] This map illustrates the text of the Report and shows that the Commissioners were agreed that the eastern terminus of the boundary was the point on the east coast of Sebatik Island where it is met by the line 4° 10' N. This map clearly was legally binding on the predecessors in title of Indonesia and Malaysia. It is binding on both the present parties.

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[1] ICJ Reports 1986, at p. 582.

[2] See above, paragraphs 9.18-9.20, and for the map annexed to the 1915 Agreement see Annexes, vol. 5, Map 23.

10.4. The position thus shown on the 1913 Report map is fully reflected in a series of other maps which show either or both of the following two features:

(a) that the boundary line does not extend into the sea east of Sebatik (hereinafter called "Feature (a)");

(b) that Ligitan and Sipadan are both regarded as being British or Malaysian islands (hereinafter called "Feature (b)").

10.5. These maps can most conveniently be presented in two groups: first, a number of British Admiralty charts; secondly, other maps.

B. British Admiralty Charts

10.6. On each of the following British Admiralty charts, the boundary is marked running from the west to the east coast of Sebatik. The boundary is not projected eastwards into the sea. The dates of the charts are set out below against their numbers, and the earlier editions have been checked to see when they were first marked. It is evident that the British understanding of the situation has been public since an early date and has elicited no adverse reactions from the Netherlands or Indonesia.

(i) British Admiralty chart No. 1681, "Northern Shore of Sibuko Bay" (first drawn 1891-92 and corrected many times between 1920 and 1963).[3] This shows Ligitan and Sipadan, but does not extend westwards to show Sebatik. However, it comes close to Sebatik (118° 5' 55" E) and shows no seaward projection of the boundary eastwards from the island, let alone one which could suggest that Ligitan or Sipadan belonged to the Netherlands Indies or Indonesia (Feature (a)).

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[3] See Annexes, vol. 5, Map 8.

(ii) British Admiralty chart No. 2576, "Sulu Archipelago and the North East Coast of Borneo from British Admiralty Surveys to 1892, from United States Government Charts to 1934, from Netherlands Government Charts to 1936".[4] This shows Sebatik Island with the boundary drawn across it from the west to the east coast, but not projecting eastwards into the sea (Feature (a)).

(iii) British Admiralty chart No. 2660B, "China Sea - Southern Portion" (first drawn in 1881).[5] New editions were published in 1882, 1900, 1901, and at intervals until 1954. This shows the boundary clearly drawn on the main Borneo territory and also drawn on Sebatik, but only between the west and east coast. There is no extension into the sea eastwards of Sebatik (Feature (a)).

(iv) British Admiralty chart No. 1852, first published in 1960, shows the same pattern (Feature (a)).[6]

C. OTHER MAPS

10.7. In June 1891 a plan was drawn up in the British Hydrographic Office "shewing the result of the determination of parallel of 4° 10' N. on East Coast Borneo, and examination of rivers in vicinity, June 1891 - Black from preliminary surveys by British officers, red from Dutch charts".[7] The 4° 10' N line is shown on the map as a parallel, but there is no indication that it is a boundary.

10.8. In 1906 the Company published a map of British North Borneo on a scale of 1:633,600 (10 miles to the inch). It was available for public purchase at Stanfords, the well-known map publishers and sellers in London, for 2s./6d. The map shows clearly the boundary between Elphinstone Province of British North Borneo and Dutch territory passing across Sebatik Island but not extending east of it (Feature (a)). The map bore an indication that it had been compiled from British Admiralty charts and from surveys and explorations of various named persons. A copy of this map was used for the purposes of the 1907 Exchange of Notes,[8] and its significance is the greater for carrying the endorsement: "This is the map mentioned in the third term of the agreement respecting the administration of certain islands on the East Coast of Borneo by the British North Borneo Company, effected by exchange of notes on July 3, 1907", and signed by the relevant officials. The endorsement shows that the map had been seen by and acted on by both the British and United States Governments.

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[4] See Annexes, vol. 5, Map 9.

[5] See Annexes, vol. 5, Map 10.

[6] See Annexes, vol. 5, Map 11.

[7] See Annexes, vol. 5, Map 12.

[8] See Annexes, vol. 5, Map 6.

10.9. In 1913 the Netherlands Indies Government Topographical Office published the first official map (on a scale of 1:750,000) of the Southern and Eastern Division of Borneo. This shows clearly both that the boundary drawn by the 1891 Treaty stops at the east coast of Sebatik (Feature (a)), and that that the group of islands (Sipadan, Mabul (Maboel), Kapalai, Ligitan, Danawan and Si Amil (Siamil)) appertain to the "Gouv^{t} van Britisch Noord-Borneo" (Feature (b)). The relevant portion of that map is reproduced at page 6 above.[9]

10.10. On a map issued by the Survey Department at Jesselton in September 1935 entitled "Plan of Semporna, District of Lahad Datu", both Ligitan and Sipadan appear specifically marked towards the south-eastern limit of the map with the words "Bird Sanctuary" attached to Sipadan (Feature (b)).[10] These words reflect the application to the island of the terms of section 28 of the Colony of North Borneo Land Ordinance 1930, which has been described in paragraph 6.24 above.

10.11. North Borneo G.S.G.S. No 4311 – 1941, Map of North Borneo, shows the East Coast Residency,[11] on a scale 8 miles to an inch. It was first published in 1941, bearing on its face the rubric "Drawn and reproduced from printed copy of North Borneo G.S.G.S. No. 4311 (dated 1941), by L.H.Q. Cartographic Co. Aust. Survey Corps. Oct. 44". The map is particularly interesting as demonstrating a clear understanding that Sipadan was part of the State of North Borneo (Feature (b)) and a deliberate intention to include it, since the island appears just beyond the bottom line of the framework of the map. The same map also shows quite clearly that the international boundary between North Borneo and Netherlands territory along the parallel of 4° 10' N extends no further east than the east coast of Sebatik (Feature (a)).

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[9] See *Schetskaart van de Residentie Zuider- en Oosterafdeeling van Borneo*, Topografische Inrichting, Batavia, 1913: Annexes, vol. 5, Map 1.

[10] See Annexes, vol. 5, Map 13.

[11] See Annexes, vol. 5, Map 14.

10.12. In 1964 the Director of National Mapping (Malaysia) produced a pair of maps, headed respectively "Pulau Sebatik" and "Tawau", showing the west and east coasts of Sebatik. The boundary clearly stops at the east coast (Feature (a)).[12]

10.13. The same presentation appears on a slightly larger scale map (6 miles to the inch) of "The Colony of North Borneo". This is described as "Revised 1947 map": it is dated 1952 and contains the statements "Compiled and drawn by the Survey Department, Jesselton, Colony of North Borneo" and "Printed by the Survey Dept. Federation of Malaya No. 71 - 1953" (Feature (a)).[13]

10.14. A map of the Lahad Datu Police District drawn in 1958 on a scale of 3 miles to the inch shows the south-eastern trending western boundary of the Police District.[14] Among the names of the islands in the district are those of Ligitan and Sipadan. The map bears the inscription "Compiled from various sources and drawn by S.M. Ross, Lahad Datu, 1958" (Feature (b)).

10.15. In 1979 the Directorate of National Mapping of Malaysia published a map of Malaysia's continental shelf boundaries in which both Ligitan and Sipadan are drawn as lying well within the limits of the Malaysian area (Feature (b)).[15]

10.16. Correspondingly, an Indonesian map, published in 1960 on a scale of 1:14,250,000, shows the baselines of the Indonesian archipelago in the 12-mile territorial sea constructed thereon.[16] The basepoint for the baseline at the northern extremity of Kalimantan is the eastern end of Sebatik. If at the time the map was drawn Indonesia had considered that Sipadan was Indonesian territory, the base point chosen in this region would undoubtedly have been Sipadan, thus extending Indonesia's claims some 40 miles seaward into what are otherwise Malaysian waters (Feature (b)).

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[12] Ref. Series T735, sheets 4/117/15 and 4/117/16, edition 3, GSGS: Annexes, vol. 5, Maps 15, 16.

[13] See Annexes, vol. 5, Map 17.

[14] See Annexes, vol. 5, Map 18.

[15] See Annexes, vol. 5, Map 19.

[16] See Annexes, vol. 5, Map 7.

10.17. As is not unusual with map evidence, the maps are not completely consistent. There are two Malaysian maps and one British map which represent the situation differently. A map produced by the National Mapping of Malaysia in 1967 shows a so-called Malaysian-Indonesian boundary with Sipadan, but not Ligitan, lying to the south of it.[17] A further map published by Malaysia in 1972[18] and one published by the British Government in 1978[19] also show a so-called Indonesian-Malaysian maritime boundary with Ligitan lying on the Malaysian side. Neither map actually shows Sipadan, but the "maritime boundary" would apparently place Sipadan on the Indonesian side. However any significance this might conceivably have (and since Sipadan is not even shown on the maps that significance would be minimal) is excluded entirely by the fact that, in one form or another, each map carries a disclaimer. The Malaysian charts carry the words: "This map is not an authority for international boundaries". The British map was an operational navigational chart and carries the words: "Charts produced under the direction of the Director of Military Survey are not to be taken as necessarily representing the view of the UK Government on boundaries or political status".

10.18. The legal effect of a disclaimer has been described by a leading authority in the following terms:

> "The disclaimer will have the particular effect of avoiding any assertion that the government publishing the map has become bound to accept the alignments by the virtue of legal concepts of estoppel, admission, acquiescence or recognition."[20]

10.19. A more recent author has added the view that "a disclaimer is an excellent warning to those consulting the map that certain issues are uncertain or that they do not fall within the scope of the map".[21]

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[17] See Annexes, vol. 5, Map 20.

[18] See Annexes, vol. 5, Map 21.

[19] See Annexes, vol. 5, Map 22.

[20] I. Brownlie, *African Boundaries* (London, 1979), p. 5.

[21] Akweenda, "The Legal Significance of Maps in Boundary Questions," 60 *British Yearbook of International Law* 205 at p. 211 (1989).

D. Conclusions in Relation to the Map Evidence

10.20. In Malaysia's submission, the material presented in the preceding chapters demonstrates fully and cogently that the 1891 Treaty did not have the effect of placing Ligitan and Sipadan under the sovereignty of Indonesia. Malaysia's position is that its title to the islands, derived from a series of transactions with Sulu, Spain and the United States dating from 1878 to 1930, is strongly supported by the facts of use and administration of the islands by North Borneo, Britain and Malaysia for more than a century, without any competing activity by the Netherlands or Indonesia. That position remains unaffected in any degree by the 1891 Treaty. It is supported by the preponderance of map evidence, as reviewed in this Chapter.

SUBMISSIONS

In the light of the considerations set out above, Malaysia respectfully requests the Court to adjudge and declare that sovereignty over Pulau Ligitan and Pulau Sipadan belongs to Malaysia.

Agent of Malaysia

Kuala Lumpur

2 November 1999

CASE CONCERNING SOVEREIGNTY OVER PULAU LIGITAN AND PULAU SIPADAN

INDONESIA/MALAYSIA

MEMORIAL OF MALAYSIA

VOLUME 2

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Annex MM 1

TREATY BETWEEN SPAIN AND SULU, SEPTEMBER 23, 1836

Treaty between Spain and Sulu of 1836.

Capitulations of Peace, Protection, and Commerce, between the Government of Her Catholic Majesty and the Sultan and Dattos of Sulu.

(Translation.)

Capitulations of Peace, Protection, and Commerce, stipulated with the Most Excellent Sultan and Dattos of Sulu, by the Most Illustrious Señor the Captain-General Governor of the Philippine Islands, in the name of the High and Mighty Sovereign Her Catholic Majesty; both Parties having previously treated and agreed thereupon, that is to say: the Captain of the Royal Navy, Don José Maria Halcon, Commander-in-chief of the Naval Forces stationed in the Roads of Sulu, to represent the Spanish Government as the Plenipotentiary of the Most Illustrious Señor the Captain-General Don Pedro Antonio Salazar, Governor of the Philippines; and for the other Party, the Sultan Mohamad Diamul-Quiran and the Dattos who sign the terms they have agreed to:

ARTICLE I.

The Most Illustrious Señor the Captain-General Governor of the Philippine Islands, on the part of Her Catholic Majesty, doth assure to the Most Excellent Sultan and the Dattos of Sulu, for now and for ever, the most solid peace on the part of the Spaniards, and of the natives of all the islands subject to the Crown of Spain, with the tributaries in the lands subject to the Sultan and his Dattos; and he offers the protection of his Government and naval and military assistance, for any war that the Sultan may be under the necessity of carrying on against the enemies who may attack him, or in order to subject the towns which may revolt in any of the islands situated within the limits of the Spanish jurisdiction, and which extend from the western point of Mindanao (Magindanao) to Borneo and the Paragua (Palawan), with the exception of Sandakan and the other countries tributary to the Sultan on the continent of Borneo.

The Sultan of Sulu, on his part, accepts the friendship and protection of the Spanish Government, and engages also to preserve peace with all the subjects of Her Catholic Majesty, and to consider as enemies all those who may henceforward be such to the Spanish nation, and to concur with armed forces for the wars which may arise, in the same manner as if they were Spaniards. In case of this aid being rendered, the provisions for the subsistence of the Suluans are to be at the expense of Her Catholic Majesty, the same as for the other soldiers and individuals of her army and navy.

The 2nd clause of the Capitulations of 1737 is hereby renewed, and explained as not including the obligation to lend aid in wars with European nations.

ARTICLE II.

In consequence of the friendship and protection which unites Sulu with the Spanish Provinces of the Philippine Islands, the Suluan ships may sail and trade freely in the open ports of Manila and Samboangan, and the Spanish in that of Sulu; where both of them will not only be admitted, but will find protection, and the same treatment as the natives.

In a separate Capitulation, the duties are regulated which Spanish vessels are to pay in Sulu, and those which Suluan vessels are to pay in Manila and in Samboangan; but by these Capitulations it is agreed that the Suluans who carry a cargo of goods from those islands are to pay in Manila and Samboangan less than foreign ships, and the Spaniards are not to pay in Sulu so much as is exacted from the vessels of other nations.

ARTICLE III.

In order that the trade of Spanish vessels at Sulu may not suffer the losses and delays caused by the difficulty of its market, the Sultan an[illegible]he Dattos agree that a factory, or "bautalan," with substantial warehouses, shall be erected for the use of Spanish merchants, where goods may be deposited without risk; and the Sultan and the Dattos promise always to respect this place, in which there is to be a resident Spanish Agent, who will manage all the affairs intrusted to him.

If the Suluans should wish to do the same in Manila, they are at liberty to do so; but the Spanish Government will receive goods in deposit in the custom-house of that city, at a duty of only 1 per cent.

The Sultan will fix a proper place for building the warehouses, where vessels may be easily loaded and unloaded, and the Spanish Government will require from the Sultan the workmen and materials they may want, and pay him for the same.

ARTICLE IV.

In order that Spanish and Suluan trading vessels may sail and trade with security, free from the piracies of the Illanos and Zamales, the Spanish Government will augment their naval forces at Magindanao, which will equally protect the one and the other: and that the innocent may not be mistaken for the guilty the following rules are to be observed :—

1. Every Spanish vessel arriving at Sulu must, when she casts anchor, show her licence to the Sultan, and he will affix his seal thereto when she sets sail; if not, the captain will be punished at Manila.

2. Every Suluan vessel going to Manila or Samboangan must have a licence from the Sultan, and with it the permit and insurance.

3. Every Spanish or Suluan vessel going to trade at Magindanao must go first to Samboangan to give notice to the Governor, who will sign a licence for it gratis.

4. All Spanish and Suluan vessels which meet the Illano and Sindangan vessels without a licence from the Sultan and Governor as above-mentioned shall be seized, and shall forfeit all their cargo, of which two-thirds will go to the captor and one-third to the Sultan of Sulu, if a Suluan vessel, and the same to the Spanish Government, if a Spanish vessel.

5. The Governor of Samboangan shall determine what is to be done with respect to the sales of goods from the towns of Pilas and Basilan, as friends of that place.

6. The Suluan trading boats which go from the islands belonging to the Sultan, either out to sea, or to Mindanao, with licence, should not flee from the ships of war they may meet with, because they are meant to defend them, and to pursue evil-disposed persons. The Commanders of these ships will have orders to receive and conform to the instructions of the Sultan.

ARTICLE V.

The Sultan and the Dattos of Sulu engage to prevent the piracies of the Illanes and Zamales in the Philippine Islands; and if they are unable to do so, the Sultan will inform the Spanish Government, that it may co-operate or do so itself.

Lastly. Should the meaning of these Capitulations not agree in the two languages, the literal Spanish text shall decide the doubt.

Palace of Sulu, the 23rd September, 1836, which is the 14th of the Moon Yumadil agil of 1252.

(L.S.) MOHAMAD DIAMULQUIRAM.
(L.S.) PEDRO ANTONIO SALAZAR.
(L.S.) JOSE MARIA HALCON.

[Ratified by Her Catholic Majesty at Madrid, the 29th October, 1837.]

Annex MM 2

ADDITIONAL CAPITULATIONS BETWEEN SPAIN AND THE SULTAN OF JOLO, AUGUST 27, 1850

Appendix No. 5.

Stipulations with the Sultan and Chiefs (Dattos) of Joló, entered into August 30, 1850, additional to those of September 23, 1836.

(Translation.)

Explanations made, on the one part, between the Colonel Don José Mari de Carles O'Doile, Military and Political Governor of the Province of Zamboanga, i the name of the Most Excellent Señor Marqués de la Solana, Governor Captain-Genera of the Philippine Islands, and on the other, the Most Excellent Sultan Mohamed Pulalo Raxad de Joló, with the Chiefs and principal men of the country,— of the Conventio of Peace, Protection, and Commerce, granted to the Sultan and Chiefs of Joló, by th Most Excellent the Governor Captain-General of the Philippine Islands, in the name o the High and Powerful Sovereignty of Her Catholic Majesty :—

ARTICLE I.

The Sultan of Joló shall not be empowered, either of himself or by consent of hi Chiefs and principal men, to concede to any foreign Power any portion of the territor which forms the extent of islands situated within the limit of Spanish rights.

ARTICLE II.

Of the territories which are tributary to the Sultan, he shall not cede any p without the previous consent of Her Catholic Majesty, since thus should be understoo the Conventions of Peace, Protection, and Commerce which the Most Powerful Quee of Spain has granted to the Very Excellent Sultan and Chiefs of Sulu, the 23rd Se tember, 1836.

ARTICLE III.

These explanations shall have from the present date all their force and value, subje notwithstanding to the approbation of the Most Excellent Captain-General of t Philippine Islands.

ARTICLE IV.

If the meaning of these explanations should not be similar in the two languag the literal text of the Spanish is to be adhered to.

(Signed) JOSÉ MARIA DE CARLES O'DOILE

Palace of Sulu, August 27, 1850.

This Convention was accepted by the Captain-General of the Philippines on t 20th September, 1850, and sanctioned by Her Majesty's Government on the 3rd Fe ruary, 1851.

Annex MM 3

CONTRACT BETWEEN THE NETHERLANDS AND THE SULTAN OF BOELOENGAN, NOVEMBER 12, 1850

Convention for and on behalf of the Government of Netherland India, concluded by Jacobus Gerardus Arnoldus Gallois, Acting Resident for the Southern and Eastern Divisions of Borneo, with Mohammed Khahar-Oedien, Sultan of Boeloengan

(Translation)

ARTICLE I. Whereas Mahammed Khahar-Oedien, Sultan of Boeloengan, after the territory of Berou had been conquered by the Netherlands in 1834, submitted to the Government of Netherland India, by an Act dated the 27th September, 1834:

The territory of Boeloengan is declared to belong to Netherland India, and His Majesty the King of the Netherlands, represented by the Governor-General of Netherland India, is acknowledged as Suzerain.

Article II. The territory of Boeloengan lies within the following limits:-

Towards Goenoeng-Teboer : from the sea-shore island, the River Karanliegan from its mouth to its source beyond * the Batoe-Bevekkier and the Palpakh Mountain;

Towards the Zulu possessions on the sea-shore, the cape called Batoe Tinagat and beyond the River Tanwan.

The following islands shall belong to Boeloengan, namely, Terakkan, Nenvoekkan, and Sebittikh, together with the small islands belonging to them.

This determination of the frontiers is to be considered as provisional, and they shall be revised in detail and fixed afresh.

Article III. The territory of Boeloengan is given to the Sultan Muhammed Vikahar-Oeddien as a fief.

The Sultan of Boeloengan shall carry on the administration in accordance with the existing law and custom of the land,-and in consultation with and in agreement with the officials appointed in Borneo by the Government of Netherland India.

Article IV. There shall always be firm friendship between the Netherland Government and the Sultan of Boeloengan.

Article V. A successor to the throne shall be designated by the Sultan in accordance with the custom of the country, so that he may be forthwith recognized by the Governor-General of Netherland India.

Should the successor to the throne die, another successor shall be chosen in accordance with the laws of the country, and his nomination shall be submitted for the approval of the Governor-General of Netherland India.

Article VI. Should the Government of Netherland India wish hereafter to establish itself in Boeloengan, the Sultan shall afford all help and assistance required.

Article VII. The Sultan of Boeloengan shall continue to levy the customary tolls and other dues which he is entitled to.

The Sultan's officials are entitled to issue passes in the same manner as is now customary.

Article VIII. The Sultan of Boeloengan shall take care and cause others to take care that proper justice is administered to those living in his territory.

All Europeans, and on the establishment of European administration all Eastern foreigners, are subject exclusively to the Courts of the [Netherland Indian] Government.

The cutting off of heads [as in use among the Diaks]* in the interior and the possibly surviving custom of mutilating bodies shall be opposed to the utmost.

Article IX. The Sultan of Boeloengan undertakes to keep the peace within his territory, and to continue in peace with the neighbouring countries.

In the case of a quarrel with any one of these countries, recourse shall not be had to war, but the intervention of the Netherland officials shall be solicited and shall be abided by.

Article X. Trade and navigation and all useful and lawful undertakings shall always be encouraged in the territory of Boeloengan.

The Sultan shall co-operate herein.

Article XI. The Sultan undertakes to afford all assistance to oppose piracy, and shall not suffer pirates to establish themselves in the territory of Boeloengan, nor to remain there, neither shall he suffer those who live in Boeloengan to give them help nor assist them by taking of them the goods or men they have captured.

Article XII. The Sultan undertakes to give the greatest possible help and assistance to shipwrecked vessels and persons on his coasts, and to give immediate notice to the resident at Bandjermasim and to the first civil authority on the east coast of Borneo whenever he hears of any shipwreck.

Article XIII. In order to prevent any foreign Power, whether European or Asiatic, from exercising a baneful influence on the friendship existing between the Netherland Government and the Sultan, he undertakes to receive no letters, presents, or Envoys from foreign Powers or Princes, nor from their Representatives or Agents, and to send none to them, without the previous knowledge and consent of the Netherland officials in Borneo.

Article XIV. The Sultan of Boeloengan undertakes not to permit Europeans to settle within the territory of Boeloengan without the knowledge and consent in writing of the Netherland authorities in Borneo, and whenever attempts are made in such a direction he shall give immediate information thereof to the first civil authority.

Traders in general, who do not settle, shall not be refused admittance, but shall receive help and protection in accordance with Article X of the present Convention.

Article XV. The Slave Trade and the importation of slaves are forbidden.

The Sultan shall henceforth take measures for preserving the rights of such persons as have surrendered themselves as pledges for guaranteeing debts.

Article XVI. The Sultan undertakes to fly and to cause others to fly the Netherland flag in the country of Boeloengan and on ships belonging to Boeloengan, with or without the flag of Boeloengan, which consists of plain yellow.

Article XVII. The Sultan of Boeloengan shall deliver to the Netherland official concluding the present Contract a written oath to be true and loyal to His Majesty the King of the Netherlands and to the Government of Netherland India, in duplicate and drawn in accordance with Mahommedan custom.

Agreed and executed in triplicate, and signed at Boeloengan on the 12th. November, 1850, being the 7th day of the month Elmochharam, of the year 1267 of the Mahomedan reckoning, in the presence of the Notables of Boeloengan.

(Signed) GALLOIS

Under the Malay text is the seal and mark of –

AMIERD (?) KHAHAR-OEDIEN,
Sultan of Boeloengan

Below is:-

Acting on our behalf:
The Civil Director of the Eastern Division of Borneo,
(Signed) H. VAN DE WALL,
ABDULYANIE, Panghoeloe.

This Convention is ratified on the 11th January of the year 1851.

The Minister of State,
Governor-General of Netherland India,
(Signed) ROCHUSSEN

By order of his Excellency:
The Secretary-General,
(Signed) C. VISSCHER.

True copy:
The Secretary-General,
(Signed) C. VISSCHER.

True copy:
The Secretary-General of the Colonial Department,
(Signed) VAN DER WIJCK

True copy:
The Secretary-General of the Department Of Foreign Affairs,
(Signed) E. ZILCKEN.

Annex MM 4

RENEWED ACT OF SUBMISSION BETWEEN JOLO AND SPAIN, APRIL 19, 1851

CONVENTION between Spain and Sooloo.—Signed at Sooloo, April 19, 1851.

(Translation.)

ACT OF RE-SUBMISSION by the Sultan of Sooloo (Joló) to the Sovereignty of Her Majesty the Queen of Spain. Signed at Joló, April 19, 1851.

[Ratified by the Governor of the Philippine Islands, at Manila April 30, 1851. Approved by the Queen of Spain, July 31, 1851.]

SOLEMN ACT of incorporation with and adhesion to the Sovereignty of Her Catholic Majesty Doña Isabella II, Constitutional Queen of the Spains, and of submission to the Supreme Government of the nation, done by the Very Excellent Sultan of Sooloo Mahamad Pulalon, and the Dattoes Mahamad-Bullo-Mulok, Daniel-Amil-Bajal, Ban-dá-Jalá, Mulok-Cajal, Amil-Baral, Tamangon, Yo-Han, Sana-Ya-Han, Nainp, Mamancha, with the Serib Mahamad Binsarin in the name and in representation of the whole Island of Sooloo, to Señor Brevet Colonel Don José Maria de Carles y O'Doile, Military and Political Governor of the Province of Zamboanga, Islands of Basilan, Pilas, Tonquill, and others adjacent, as Plenipotentiary specially authorised by His Excellency Señor Don Antonio de Urbiztondo Marquis de la Solana, Governor and Captain General of the Philippine Islands.

ART. I. The Very Excellent Sultan of Sooloo Mahamad Pulalon for himself, his heirs, and descendants, the Dattoes Mahamad Bullo-Mulok, Daniel-Amil-Bajal, Ban-dá-Jalá, Mulok-Cajal, Amil-Baral, Tamangon, Yo-Han, Sana-Ya-Han, Nainp, Mamancha, and the Serib Mahamad Binsarin, of their spontaneous and free will declare: that for the purpose of redressing the outrage committed on the Spanish nation on the 1st day of January of the present year, they desire and beg that the Island of Sooloo with all its dependencies, may be incorporated with the crown of Spain, which some centuries ago was already their only Sovereign and Protector, making anew on this day a solemn Act of adhesion and submission, recognizing Her Catholic Majesty Doña Isabella II, Constitutional Queen of the Spains, and those who may succeed her in that supreme dignity as their Sovereigns, Lords, and Protectors, as by right belongs to them, as well by the Treaties concluded at remote epochs, by that of 1836,[*] and additions made by the present Governor of Zamboanga in August last, as also most particularly by the recent conquest of Sooloo, made on the 28th of February of the present year, by His Excellency Señor Don Antonio de Urbiztondo, Marquis de la Solana, Governor and Captain-General of the Philippine Islands.

II. The Sultan and Dattoes engage solemnly to maintain in its integrity the territory of Sooloo and its dependencies, as a part of the Archipelago belonging to the Spanish Government.

III. The Island of Sooloo and all its dependencies, being incorporated with the Crown of Spain, and their inhabitants forming a part of the great Spanish family which peoples the vast Philippine Archipelago, the Sultan and Dattoes cannot enter into nor sign Treaties, Commercial Conventions, nor alliance of any kind with

European Powers, companies or persons, Malay corporations, Sultans and Chiefs, on pain of nullity; they declare null and of no effect all Treaties concluded with other Powers, if they prejudice the ancient and indisputable rights which Spain has to the whole Archipelago of Sooloo, as part of that of the Philippines, and they ratify, renew, and leave in all their force and validity the documents previously drawn up, which contain any clause favourable to the Spanish Government from the most remote times.

IV. They renew the solemn engagement not to practise, nor to allow any one to practise piracy in the dominions of Sooloo; to prosecute those who may devote themselves to that infamous traffic; and they declare themselves enemies of all those who shall be enemies of Spain, and allies of all her friends.

V. From this day Sooloo shall hoist the Spanish national flag in her towns and shipping; and the Sultan, and other constituted authorities will use the Spanish war flag, on the same principles as is done in the other Spanish dominions, and they shall not be able to make use of any other either at sea or on land.

VI. The Island of Sooloo, and its dependencies, being declared an integral part of the Philippine Archipelago which belongs to Spain, trade under the Spanish flag is recognized as free in all the ports dependent on the Sultanship, without restriction of any kind, the same as is done in the ports of the nation.

VII. The Sultan and Dattoes of Sooloo having recognized the Sovereignty of Spain over their territory, a Sovereignty that is now invigorated, not only by the right of conquest, but by the clemency of the conqueror, no fortification of any kind whatever can be raised in the territory under their command, without an express permission of His Excellency the Governor and Captain-General of these Islands; the purchase and use of fire-arms of every kind must also be prohibited without a licence from the same superior authority, for the ships shall be reputed as enemies in which arms of any other kind are found than the side-arms or swords used in the country from time immemorial.

VIII. The Spanish Government wishing to give an unequivocal proof of the protection conceded to the Soolooese, the proper Royal patents shall be issued to the Sultan and Dattoes to accredit their authority and rank.

IX. The Spanish Government guarantees with all solemnity to the Sultan, and the other inhabitants of Sooloo, the use and practice of the religion which they profess, on which not the slightest restriction shall be placed, and likewise to respect their customs.

X. The Spanish Government likewise guarantees the right of succession to the present Sultan and his descendants in the established order, and while he does not fail in these Conventions, and grants the like guarantee in their dignities and ranks to the privileged classes to whom all rights shall be preserved.

XI. Soolooese ships and goods shall enjoy in the Spanish ports, without any difference whatever, the same privileges as are enjoyed by the natives of the Philippines.

XII. Excepting in regard to Spanish ships, the duties shall be continued with which the Sultan and Dattoes at present maintain the rank of their class, so that it may always retain the lustre and decorum with which they ought to maintain it; for this purpose those duties shall be paid by all the vessels arriving at the ports, and other means be subsequently established by which they may elevate their dignity and augment their prestige.

XIII. In order to secure and invigorate more and more the authority of the Sultan, as well as to promote the continual traffic which the riches of Sooloo must produce, so soon as the Government may direct it, and in harmony with Article III of the Treaty of 1836, a factory shall be formed and garrisoned by Spanish forces, for the establishment of which the Sultan and Dattoes must render all the assistance in their power, as also the natives, who shall be paid for their work and the materials they supply at the fair price which they may bear in the country.

XIV. The site most suitable for the factory being that called Cotta de Daniel, close to the roadstead, it shall be established in that spot; but taking care not to occupy in any way the cemetery which the natives have there, and which must be religiously respected, and the erection of any edifice is forbidden, so as to prevent the injury which might afterwards accrue to those who should build there.

XV. The Sultan of Sooloo shall be able to issue passports to all the persons in his dominions who may request them, establishing the fees to be paid on issuing them; he is likewise authorised to countersign or put his seal to the passports of the Spaniards who may visit his residence.

XVI. Taking into consideration the representations of the Sultan of Sooloo, and convinced of the certainty of the losses occasioned to him by the burning of his forts and palace, the Spanish Government grants him an annual stipend of 1,500 dollars, to indemnify him in a certain way for the losses sustained, and serve at the same time to maintain with due lustre the decorum due to his person and dignity. The same considerations induce the Spanish Government to concede to the Dattoes, Mahamad-Bullo-Mulok, and Daniel-Amil-Bajal 600 dollars annually to each, and 360 dollars to the Scrib Mahamad Binsarin for his good services rendered to the Spanish Government.

XVII. The Articles contained in this solemn Act shall from this day have all their force and validity, but must, nevertheless, be subject to the superior approbation of his Excellency the Governor and Captain-General of these Philippine Islands. Every doubt that may arise regarding the text of this Act shall be settled by adhering literally to the Spanish.

Signed at Sooloo, on the 19th day of the month of April, 1851.

Here follows the Seal of the Sultan. Ditto of Datto Mahamad-Bullo. Ditto of Datto Daniel Amil-Bajal. Ditto of Datto Mulok-Cajal. Ditto of Datto Tamangon. Ditto of Datto Sana-Ya-Han. Ditto of Datto Mamancha. Ditto of Datto Mulok. Ditto of Datto Ban-dá-Jalá. Ditto of Datto Amil-Baral. Ditto of Datto Yo-Han. Ditto of Datto Nainp. And the signature of the Serib Mahamad Binsarin.

JOSE MARIA DE CARLES Y O'DOILE,
Military and Political Governor of the Province of Zamboanga, &c.

I, Don Antonio de Urbiztondo y Eguia, Marquis de la Solana, Knight Grand Cross of the Royal American Order of Isabella the Catholic, of that of San Fernando, of the first and third classes, and of that of San Hermenegildo, Lieutenant-General of the national armies, Governor and Captain-General of the Philippine Islands, President of the Royal Court of Audience, Sub-Delegated Judge of the Postal Revenue, Royal Vice-Patron and Director-General of the troops, &c.

In the name of Her Majesty the Queen of Spain, Donna Isabella II (whom God preserve) approve, confirm, and ratify this Convention.—Manila, April 30, 1851.

ANTONIO DE URBIZTONDO.

The Government of Her Majesty agreed to the foregoing stipulations by Royal Order of July 31, 1851.

Annex MM 5

THE PROTOCOL OF SULU OF 1877
BETWEEN SPAIN, GERMANY AND GREAT BRITAIN,
MAY 30, 1877

APPENDIX XIX

The Protocol Of Sulu, Of 1877, Between Spain, Germany, And Great Britain, May 30, 1877[1]

General Government of the Philippines

Royal Order

Colonial office. No. 281. Excellent Sir: The Secretary of State sent the following communication to this office on the 26th of March last: By Royal order communicated by the Secretary of State and for such action as is indicated therein I deliver herewith to your Excellency a copy of the protocol signed on the 11th inst. by Señor Manuel Silvela, Secretary of State, and by the representatives of Great Britain and Germany, for the purpose of establishing the liberty of trade and commerce in the Sulu seas; said protocol takes effect on this date, as specified in Article 5 of the same. Referred to your Excellency by Royal order with a copy of the protocol, for its execution. God keep your Excellency many years.

Madrid, *April* 2, 1877.

Martin de Herrera.

The Governor-General of the Philippine Islands.

Manila, *May* 30, 1877.

The above order shall be executed, communicated and published.

Moriones.

[Protocol referred to.]

The Hon. Austin Henry Layard, Envoy Extraordinary and Minister Plenipotentiary of her Britannic Majesty; and Count Von Hatzfeldt, Envoy Extraordinary and Minister Plenipotentiary of his Majesty the Emperor of Germany, commissioned by their respective Governments to terminate the difficulties which have occurred in the Sulu seas and to establish for that purpose, in a final way, the liberty of commerce in those seas, acknowledged by the Secretary of State of Spain in the Notes which he sent on April 15, 1876, to the representatives of Great Britain and Germany;

After having examined with due attention the preliminaries of the question and especially the negotiations formerly carried on between the Governments of Great Britain and Germany and that of Spain, have agreed to draw up the following Protocol:

The Secretary of State of Spain, in the name of his Government, says:

Considering the preliminary fact that the German ships "Marie Louise" and "Gazelle" were returned and an indemnity paid for their cargoes in 1873 and 1874, and that the German ship "Minna" was returned twice in 1875 and 1874:

Duly appreciating the increasing requirements of navigation and commerce, and above all the legal status constituted by the Notes of the Spanish Secretary of State dated the 15th of April last and by the official publication of said

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[1] From the Division of Archives, Executive Bureau [now Bureau of Records Management], Manila.

Notes by the Governments of Great Britain and Germany, as also by the instructions given accordingly by said Governments to their consuls, agents and commanders of their naval forces;

Therefore the Government of his Majesty the King of Spain recognizes that the merchant ships going to the Sulu archipelago can no longer be required to call first at Zamboanga, to pay the harbor dues there and to provide themselves with a navigation permit delivered at said port. It furthermore believes that it must acknowledge, as provided in the Notes of the 15th of April last, the complete liberty of direct trade and commerce for ships and subjects of Great Britain, the German Empire and the other powers, with the Sulu archipelago.

Considering that the Governments of Great Britain and of Germany have maintained all their claims in regard to the liberty of navigation, commerce and direct trade with the Sulu archipelago and within the archipelago; that the Government of his Majesty the King of Spain admits that it cannot guarantee the security of commerce at unoccupied places of the archipelago in return for duties and dues paid, but will guarantee perfect security to the ships and subjects of Great Britain, Germany and the other powers at places occupied by said Government, and provide the establishments necessary for the protection of their trade, the Spanish Secretary of State remarks that there is no reason why said ships and subjects should be exempted, at places occupied by Spain, from the formalities, general regulations and ordinary duties, whose nature will be explained in the present Protocol.

The undersigned representatives of Great Britain and of Germany refer, on their part, to the Notes and official communications sent by them on this matter to the Spanish Government, and requesting the latter to acknowledge the absolute liberty of commerce and trade in all parts of the Sulu archipelago, said acknowledgment having been mentioned by the Spanish Government in the Notes of April 15, 1876.

In consequence of what precedes and as the result of their conferences, the undersigned have agreed on the following declarations:

I

Commerce and direct trading by ships and subjects of Great Britain, Germany and the other powers are declared to be and shall be absolutely free with the Sulu archipelago and in all parts thereof, as well as the right of fishery, without prejudice to the rights recognized to Spain by the present Protocol, in conformity with the following declarations:

II

The Spanish authorities shall no longer require ships and subjects of Great Britain, Germany and the other powers, going freely to the archipelago of Sulu, or from one point to another within the Sulu waters, or from such a point to any other point in the world, to touch, before or after, at any specified place in the archipelago or elsewhere, to pay any duties whatsoever, or to get a permit from said authorities, which, on their side, shall refrain from obstructing or interfering in any way with the above mentioned trade.

It is understood that the Spanish authorities shall in no way and under no pretense prevent the free importation and exportation of all sorts of goods, without exception, save at such places as are occupied, and in accordance with Declaration III, and that in all places not occupied effectively by Spain, neither the ships subjects above mentioned nor their goods shall be liable to any tax, duty or payment whatsoever, or any sanitary or other regulation.

PROTOCOL OF SULU OF 1877

III

In the places occupied by Spain in the archipelago of Sulu the Spanish Government shall be empowered to establish taxes and sanitary and other regulations, while said places are effectively occupied; but Spain pledges herself, on her part, to provide in such places the offices and employees necessary to meet the requirements of commerce and the application of said regulations. It is however expressly understood that the Spanish Government, while it is resolved to impose no restrictive regulations in the places occupied by it, pledges itself voluntarily not to establish in said places taxes or duties exceeding those provided in the Spanish tariffs or in the treaties or conventions between Spain and any other power. Neither shall it put into force in said places exceptional regulations applicable to the commerce and subjects of Great Britain, Germany and the other powers.

In case Spain should occupy effectively other places in the archipelago of Sulu, and provide thereat the offices and employees necessary to meet the requirements of commerce, the Governments of Great Britain and Germany shall not object to the application of the rules already stipulated for places occupied at present. But, in order to avoid the possibility of new claims due to the uncertainty of business men in regard to the places which are occupied and subject to regulations and tariffs, the Spanish Government shall, whenever a place is occupied in the Sulu archipelago, communicate the fact to the Governments of Great Britain and Germany, and inform commerce at large by means of a notification which shall be published in the official journals of Madrid and Manila.

In regard to the tariffs and regulations stipulated for places which are occupied at the present time, they shall only be applicable to the places which may be subsequently occupied by Spain six months after the date of publication in the Official Gazette of Madrid. It remains agreed that no ship or subject of Great Britain, Germany and other powers shall be required to call at one of the occupied places, when going to or from a place not occupied by Spain, and that they shall not be liable to suffer prejudice on that account or on account of any class of merchandise shipped to an unoccupied place in the archipelago.

IV

The three Governments represented by the undersigned pledge themselves respectively to publish the present declarations and to have them strictly respected by their representatives, consular agents and commanders of the naval forces in the seas of the Orient.

V

If the Governments of Great Britain and Germany do not refuse their adhesion to the present Protocol within 15 days from this date, or if they notify their acceptance before the expiration of said period, through their undersigned representatives, the present Declaration shall then come into force.

MANUEL SILVA

Secretary of State of His Majesty, the King of Spain

Done at Madrid, the 11th of March, 1877.

A true copy. MADRID, *April 2, 1877*. A true copy. The Subsecretary, FRANCISCO RUBIO.

Annex MM 6

GRANT BY SULTAN OF BRUNEI OF TERRITORY COMPRISING GAYA BAY AND SEPANGGAR BAY,

DECEMBER 29, 1877

بعد الواله كيت سري فادوك ∴ اباوه دولي يغدفرتوان السلطان عبد المؤمنين ابن المرحوم سري فادوك سري انا
عبد الوهاب يغ فيغكوت كواس دان فرنته اكن نكري بروني دار السلام تله مما جقكن كفد توان كنسل بارون دي
اوبربيق يغ تغكل دكرب هونغكوغ دان كفد الفريد دينت اسكوير يغ تغكل دنكري لندن انكريس برسام٢ دان كفد لوسين
دان كفد ڤغكتنپ دان كفد وكيلن اكن سكل جاجهن٢ دان تانه٢ يغ كيت فوپ دري تنجوغ فاي سيغي كفد
تنجوغ لوتت دان فولو كاي دان فولو سفغكر دان فولو٢ يغ بجاجر٢ دان سبيلهن سبله دري تغه سغي دكاتكن
نيس لغي نام نكري فافر يغ برسمبوغ دغن نكري بنوني مكسكلين تانه٢ دان فولو٢ اين تله دفا جقكن اوله
باوه دولي يغدفرتوان كفد توان كنسل بارون دي اوبربيق دان كفد الفريد دينت اسكوير اكن دفربواتپ
سفرتي مان٢ كسوكاان هاتيپ سماج٢ .. دغن سبب تانه٢ نكري يغ كن فجاكن اين مك كنسل بارون دي
اوبربيق دان الفريد دينت اسكوير يغ ترسبوة نماپ دالم اين سورة يغ دبريكن توبن سباه بر جنجي اكن مباير
حاصيلپ كفد باوه دولي يغدفرتوان سلطان عبد المؤمنين دان كفد تسموچن مونتري بيوروشا تيف٢
ساتو تاهون اكن دباير فد تيف٢ تاهون . دغن جاجهن٢ دان فولو٢ يغ ترسبوة دالم اين سورة اين
اين سوده دفا جقكن كفد كنسل بارون دي اوبربيق دان كفد الفريد دينت اسكوير يغ ترسبوة نماپ دالم
اين دان كفد وارث٢ دان كفد كوغسي٢ دان كفد ڤغكتنپ دان كفد وكيلپ اكن ممليكي اكن اي سغي
سلام لاماپ يغ دبياركن سوكا ماونكي جاجهن دان فولو٢ اية . تتافي جكلو دالم بكر تاهون اي تياد مباير
حاصيل نيس دان فولو٢ يغ دفا جقكن اية مك فرجنجين اين دالن باوه دولي يغدفرتوان برالبل
باليق نيس دان فولو٢ يغ ترسبوة دالم اين اداپ .

ترسبوة سورت فرجنجين اين دالم نكري بروني دالم باوه دولي يغدفرتوان سلطان بروني كفد ٢٣ هاري
1877
بولن ذوالحجة سنة ١٢٩٤ يائيت كفد ٢٩ هاري بولن دسمبر تاهون مسيحي سنة .

GRANT BY SULTAN OF BRUNEI OF TERRITORY COMPRISING GAYA BAY AND SĔPANGGAR BAY, &c. Dated 29th December, 1877.

Translation

Seal of Sultan Abdulmu'min of Brunei.

We, His Highness the Sultan Abdulmu'min son of His Highness the late Maulana Abdulwahab who hold power and sovereign authority in the State of Brunei, have granted to Gustavus Baron de Overbeck residing at Hong Kong and Alfred Dent Esquire residing in London co-jointly their associates successors and representatives all the territories and lands belonging to Us from Gaya Head to Lutut Point including Gaya Island Sĕpanggar Island and the small islands within nine miles of the coast likewise the coastland named the country of Papar adjoining the country of Benoni. All these lands and islands have been granted by His Highness to Gustavus Baron de Overbeck and Alfred Dent Esquire to be dealt with by them in any way they please.

The consideration of this grant is that the above-named Baron de Overbeck and Alfred Dent severally and jointly promise to pay to His Highness the Sultan Abdulmu'min his heirs and successors xx a quit rent of four thousand dollars payable every year. The aforesaid territories and islands have from this date been granted to the said Baron de Overbeck and Alfred Dent their heirs associates successors and assigns holding this grant for so long as they shall desire to use these territories and islands. Provided however that if for three years they do not pay the quit rent of these coastlands and islands of which they have taken a grant, this agreement shall be void and His Highness may resume the above mentioned coastlands and islands.

xx Literally, "his children and grand-children".

This agreement is written at Brunei in the palace of His Highness the Sultan of Brunei on the 23rd day of the month of Zulhijjah, A.H.1294, i.e. on the 29th December, A.D.1877.

Malay
Transcript.

GRANT BY SULTAN OF BRUNEI OF TERRITORY COMPRISING GAYA BAY AND SĔPANGGAR BAY, &c. Dated 29th December, 1877.

Seal of
Sultan Abdulmu'min
ibn al-marhum Sĕri Paduka
Maulana Abdulwahab
of Brunei.

Bahwa ada-lah kita Sĕri Paduka Maulana Bawah Duli Yang-di-pĕrtuan as-Sultan Abdulmu'min ibn al-marhum Sĕri Paduka Maulana Abdulwahab yang mĕmĕgang kuasa dan pĕrentah dalam nĕgĕri Bĕrunai darassalam tĕlah mĕmajakkan kapada Tuan Gustavus Baron de Overbeck yang tinggal di-nĕgĕri Hong Kong dan kapada Alfred Dent Esquire yang tinggal di-nĕgĕri London bĕrsama-sama dan kapada kongsi-nya dan kapada pĕngganti-nya dan kapada wakil-nya akan sĕgala jajahan-jajahan dan tanah-tanah yang kita punya dari Tanjong Gaya sampai kapada Tanjong Lutut dan Pulau Gaya dan Pulau Sĕpanggar dan pulau-pulau yang kĕchil-kĕchil di-dalam sĕmbilan mile dari tĕpi pantai. Dan lagi pĕsisir yang bĕrnama nĕgĕri Papar yang bĕrsambong dĕngan nĕgĕri Benoni.

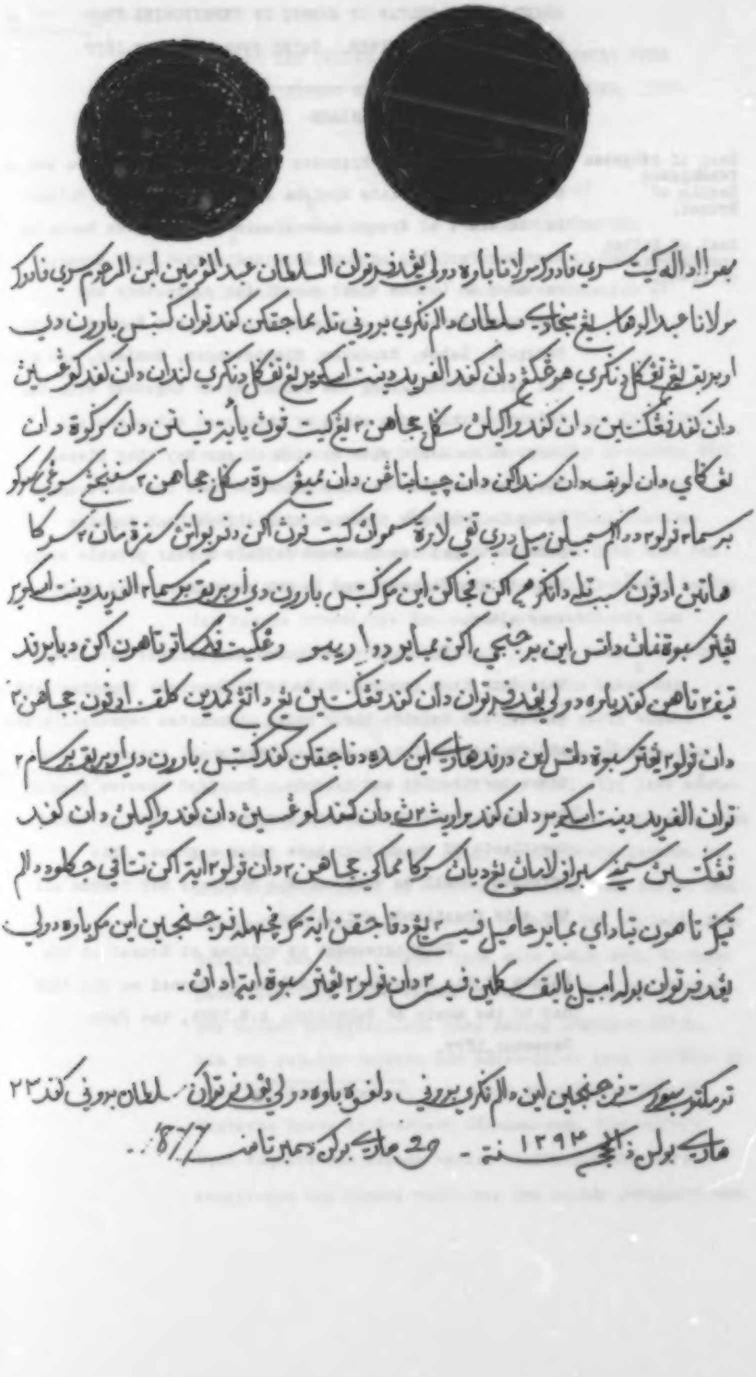
Maka sakalian tanah-tanah dan pulau-pulau ini tĕlah di-pajakkan oleh Bawah Duli Yang-di-pĕrtuan kapada Tuan Gustavus Baron de Overbeck dan kapada Alfred Dent Esquire akan di-pĕrbuat-nya sapĕrti mana-mana kĕsukaan hati-nya sahaja.

Ada pun sĕbab tĕlah di-anugĕrahi akan pajakan ini, maka Gustavus Baron de Overbeck dan Alfred Dent Esquire yang tĕrsĕbut nama-nya di-atas ini sa-orang diri-nya atau bĕrsama-sama bĕrjanji akan mĕmbayar hasil kapada Bawah Duli Yang-di-pĕrtuan Sultan Abdulmu'min dan kapada anak chuchu-nya ĕmpat ribu ringgit pada satu tahun akan di-bayar pada tiap-tiap tahun. Ada pun jajahan-jajahan dan pulau-pulau yang tĕrsĕbut di-atas ini dari pada hari ini sudah di-pajakkan kapada Gustavus Baron de Overbeck dan kapada Alfred Dent Esquire yang tĕrsĕbut nama-nya di-atas ini dan kapada waris-waris-nya dan kapada kongsi-nya dan kapada pĕngganti-nya dan kapada wali-nya yang mĕmĕgang pajakan ini sampai sa-bĕrapa lama-nya yang dia-nya suka mahu pakai jajahan dan pulau-pulau itu. Tĕtapi jikalau di-dalam tiga tahun ia tiada mĕmbayar hasil pĕsisir dan pulau-pulau yang di-pajak-nya itu, maka pĕchah-lah pĕrjanjian ini dan Bawah Duli Yang-di-pĕrtuan boleh ambil balek pĕsisir dan pulau-pulau yang tĕrsĕbut di-atas ini ada-nya.

Tĕrmaktub surat pĕrjanjian ini dalam nĕgĕri Bĕrunai di-lĕpau Bawah Duli Yang-di-pĕrtuan Sultan Bĕrunai kapada 23 hari bulan Zulhijjah sanat 1294 ya-itu kapada 29 hari bulan December tahun Masehi sanat 1877.

Annex MM 7

GRANT BY SULTAN OF BRUNEI OF TERRITORIES FROM PAITAN TO SIBUKU RIVER, DECEMBER 29, 1877



بهوا اداله كيت سري ڤادوك مولانا باوه دولي يڠ دڤرتوان السلطان عبد المؤمنين ابن المرحوم سري ڤادوك

مولانا عبد الوهاب يڠ برتختا سلطان د دالم نكري بروني تله مماجقكن كڤد توان كستبس بارون دي

اوبربق يڠ تڠڬل د نكري هوڠكوڠ دان كڤد الفريد دينت اسكوير يڠ تڠڬل د نكري لندن دان كڤد كوغسين

دان كڤد ڤڠكنتين دان كڤد وكيلڽ سكل جاجهن٢ يڠ كيت ڤوڽ يا ايت ڤيتن دان سوكوة دان

بڠكاي دان لوبق دان سنداكن دان چينباتاڠن دان مميڠ سرة سكل جاجهن٢ سبلهن سوڠي سيبوكو

برسماء ڤولو٢ د دالم سمبيلن ميل دري تڤي لاوة سمولان كيت ڤرنتهكن دان براتن سبرڠ مان٢ سوكا

هاتين ادڤون سبب تله د انكرهكن دان ڤجاكن اين كڤد كستبس بارون دي اوبربق برسماء الفريد دينت اسكوير

لاڠكر سبوة ممات دانتس اين برجنجي اكن ممباير دوا ريبو رڠڬيت ڤد ستاو تاهون اكن دبايرند

تيڤ٢ تاهون كڤد باوه دولي يڠ دڤرتوان دان كڤد ڤڠكنتين يڠ داتڠ كمدين كلق . ادڤون جاجهن٢

دان ڤولو٢ لاڠكر سبوة دانس اين درندهاري اين سده د ماجقكن كڤد كستبس بارون دي اوبربق برسام٢

توان الفريد دينت اسكوير دان كڤد وارث٢ ڽ دان كڤد كوغسينڽ دان كڤد وكيلڽ دان كڤد

ڤڠكنتين سڤرتي سلام لاماڽ يڠ دباوه سوكا مماكي جاجهن٢ دان ڤولو٢ ايت اكن تتاڤي جكلو د الم

تيڬ تاهون تياد اي ممباير حاصل ڤيس٢ يڠ دماجقن ايت مك ڤجهله ڤرجنجين اين كڤد باوه دولي

يڠ دڤرتوان برله امبل باليق سكلين ڤيس٢ دان ڤولو٢ لاڠكر سبوة ايت اداڽ .

ترمكتوب سورت ڤرجنجين اين د الم نكري بروني دلڠوڠ باوه دولي يڠ دڤرتوان سلطان بروني كڤد ٢٣

هاري بولن ذو الحجة سنة ١٢٩٤ - ٢٩ هاري بولن دسمبر تاهون 1877 ..

GRANT BY THE SULTAN OF BRUNEI OF TERRITORIES FROM PAITAN TO SIBUKU RIVER. DATED 29th DECEMBER,1877.

Translation.

Seal of Pĕngeran Tĕmĕnggong Hashim of Brunei.

Seal of Sultan Abdulmu'min of Brunei.

We, His Highness the Sultan Abdulmu'min son of His Highness the late Maulana Abdulwahab who are Sultan in the State of Brunei have granted to Gustavus Baron de Overbeck residing at Hong Kong and Alfred Dent Esquire residing in London their associates successors and representatives all our territories to wit Paitan, Sugut, Bonggaya, Labok, Sandakan, Kinabatangan, Mumiang, and all the territories along the Sibuku River together with the islands within nine miles of the coast which are all ours, to be dealt with by them in any way they please. The consideration of this grant is that the above-named Baron de Overbeck together with Alfred Dent Esquire promise to pay two thousand dollars a year payable every year to His Highness and to his successors that shall come after.

The said territories and islands have from this date been granted to Baron de Overbeck together with Alfred Dent Esquire their heirs associates representatives and successors for so long as they shall desire to use these territories and islands. Provided however that if for three years they do not pay the quit-rent of these coastlands of which they have taken a grant, this agreement shall be void and His Highness may resume all the said coastlands and islands.

This agreement is written at Brunei in the Palace of His Highness the Sultan of Brunei on the 23rd day of the month of Zulhijjah, A.H.1294, the 29th December,1877.

Malay
Transcript.

GRANT BY THE SULTAN OF BRUNEI OF TERRITORIES FROM PAITAN TO SIBUKU RIVER. DATED 29th DECEMBER, 1877.

Seal of	Seal of
Pĕngeran Tĕmĕnggong Hashim ibn al-marhum Maulana Sultan Omar Ali Saifuddin of Brunei.	Sultan Abdulmu'min ibn al-marhum Sĕri Paduka Maulana Abdulwahab of Brunei

Bahwa ada-lah kita Sĕri Paduka Maulana Bawah Duli Yang-di-pĕrtuan as-Sultan Abdulmu'min ibn al-marhum Sĕri Paduka Maulana Abdulwahab yang mĕnjadi Sultan dalam nĕgĕri Bĕrunai tĕlah mĕmajakkan kapada Tuan Gustavus Baron de Overbeck yang tinggal di-nĕgĕri Hong Kong dan kapada Alfred Dent Esquire yang tinggal di-nĕgĕri London dan kapada kongsi-nya dan kapada pĕngganti-nya dan kapada wakil-nya sĕgala jajahan-jajahan yang kita punya ya-itu Paitan dan Sugut dan Bonggaya dan Labok[x] dan Sandakan dan Chinabatangan dan Mumiang[xx] sĕrta sĕgala jajahan-jajahan sa-panjang Sungai Sibuku bĕrsama-sama pulau-pulau di-dalam sĕmbilan mile dari tĕpi laut sĕmua-nya kita punya akan di-pĕrbuat-nya sapĕrti mana-mana suka hati-nya. Ada pun sĕbab tĕlah di-anugĕrahi pajakan ini, maka Gustavus Baron de Overbeck bĕrsama-sama Alfred Dent Esquire yang tĕrsĕbut nama-nya di-atas ini bĕrjanji akan mĕmbayar dua ribu ringgit pada satu tahun akan di-bayar pada tiap-tiap tahun kapada Bawah Duli Yang-di-pĕrtuan dan kapada pĕngganti-nya yang datang kĕmudian kĕlak. Ada pun jajahan-jajahan dan pulau-pulau yang tĕrsĕbut di-atas ini daripada hari ini sudah di-pajakkan kapada Gustavus Baron de Overbeck bĕrsama-sama Tuan Alfred Dent Esquire dan kapada warith-warith-nya dan kapada kongsi-nya dan kapada wakil-nya dan kapada pĕngganti-nya

[x] The original wrongly has Lubak.

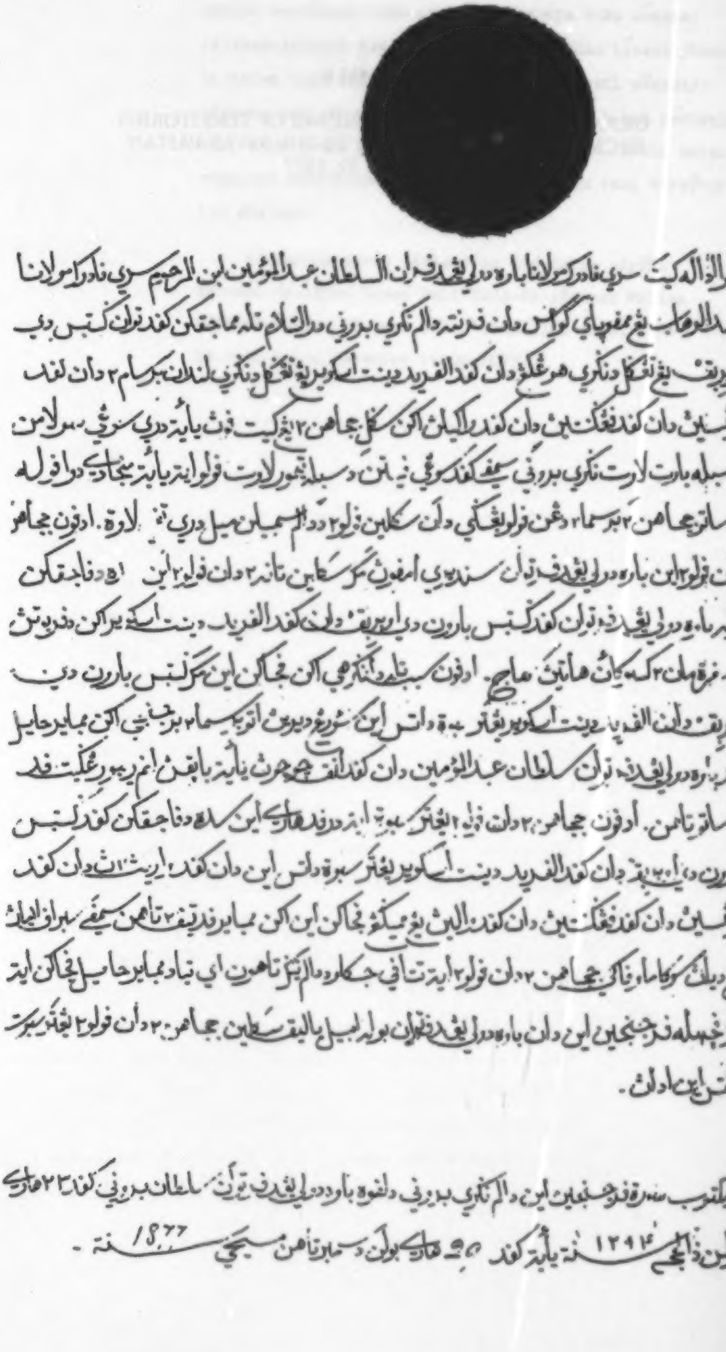
[xx] Possibly Mĕmiang.

sampai sa-bĕrapa lama-nya yang dia-nya suka mĕmakai jajahan-jajahan dan pulau-pulau itu. Akan tĕtapi jikalau di-dalam tiga tahun tiada ia mĕmbayar hasil pĕsisir-pĕsisir yang di-pajak-nya itu, maka pĕchah-lah pĕrjanjian ini, maka Bawah Duli Yang-di-pĕrtuan boleh ambil balek sakalian pĕsisir-pĕsisir dan pulau-pulau yang tĕrsĕbut itu ada-nya.

Tĕrmaktub surat pĕrjanjian ini dalam nĕgĕri Bĕrunai di-lĕpau Bawah Duli Yang-di-pĕrtuan Sultan Bĕrunai kapada 23 hari bulan Zulhijjah sanat 1294 - 29 hari bulan December tahun 1877.

Annex MM 8

GRANT BY THE SULTAN OF BRUNEI OF TERRITORIES FROM THE SULAMAN RIVER TO THE RIVER PAITAN, DECEMBER 29, 1877



بهوا الواله كيت سري فادوك مولانا بارو دولي يغ دفرتوان السلطان عبد المؤمن ابن المرحوم سري فادوك مولانا
عبد الوهاب يغ مفوڽاءي كواس دان فرنته دالم نكري بروني دار السلام تله مماجقكن كفد توان كنتس دي
اوبربيق يغ تيڠݢل دنكري هوڠكوڠ دان كفد الفريد دينت اسكوير يغ تيڠݢل دنكري لندان برسام٢ دان لڠكف
كوڠسيث دان كفد فڠݢنتيث دان كفد واكيلث اكن سكل جاجهن٢ يغ كيت فوڽ يايت دري سوڠي سولامن
دسبله بارت لاءوت نكري بروني سمڤي كفد سوڠي كيماني دسبله تيمور لاءوت فولاو اينتر يايت بنجاري دري ڤوله
سلاتن جاجهن٢ برسام٢ دڠن فولو٢ يغ ادا سكلين فولو٢ ددالم سمبيلن ميل دري تڤي لاءوت. اداڤون جاجهن
دان فولو٢ اين بارو دولي يغ دفرتوان سنديري امڤوڽ مك سكلين تانه٢ دان فولو٢ اين ايت دفاجقكن
اوله بارو دولي يغ دفرتوان كفد كنتس بارون دي اوبربيق دان كفد الفريد دينت اسكوير اكن دفرينتهث
فرنتهن٢ كراجاءن هاريث ماجو. اداڤون سبب تله دڠن هندق اكن منجاكن اين مك كنتس بارون دي
اوبربيق دان الفريد دينت اسكوير يغ ترسبوت دالم اين سوره دي اتس برسام٢ برجنجي اكن ممباير حاصل
كفد بارو دولي يغ دفرتوان سلطان عبد المؤمن دان كفد انق چوچوث يايت باقيث انم ريبو رڠݢيت فد
ستاهون. اداڤون جاجهن٢ دان فولو٢ يغ ترسبوت ايت دري فد هاري اين سلاماث دفاجقكن كفد كنتس
بارون دي اوبربيق دان كفد الفريد دينت اسكوير يغ ترسبوت دالم اين دان كفد وارث٢ دان كفد
كوڠسيث دان كفد فڠݢنتيث دان كفد واكيلث يغ ممكڠث منجاكن اين اكن ممباير فد تيڤ٢ تاهون سمڤي سلام٢ث
يغ دبلاكڠ كمدين فد ناكي جاجهن٢ دان فولو٢ ايت تتاڤي جك لالو دالم تيݢ تاهون اي تياد ممباير حاصل منجاكن ايت
مك جاديله فرجنجين اين دان بارو دولي يغ دفرتوان بوليه امبيل بالق سمواڽ جاجهن٢ دان فولو٢ يغ ترسبوت
دالم اين اداله.

ترمكتوب سورة فرجنجين اين دالم نكري بروني دلفوه بارو دولي يغ دفرتوان سلطان بروني كفد ٢٢ هاري
بولن ذوالحجة ١٢٩٤ سنة يايت كفد ٢٩ هاري بولن ديسمبر تاهون مسيحي 1877 سنة -

GRANT BY SULTAN OF BRUNEI OF TERRITORIES FROM THE SULAMAN RIVER TO THE RIVER PAITAN. Dated 29th December, 1877.

Translation

Seal of Sultan Abdulmu'min of Brunei.

His Highness
We, /the Sultan Abdulmu'min son of His Highness the late Maulana Abdulwahab who possess power and sovereign authority in the State of Brunei, have granted to Gustavus Baron de Overbeck residing at Hong Kong and Alfred Dent Esquire residing in London co-jointly their associates successors and representatives all the territories belonging to Us from the Sulaman River on the north-west of Borneo unto the River Paitan on the north-east of the island being twentyone territories together with the island of Banggi and all the islands within nine miles of the coast.

These territories and islands belong to His Highness himself, and all these lands and islands have been granted by His Highness to Gustavus Baron de Overbeck and Alfred Dent Esquire to be dealt with by them in any way they please.

The consideration of this grant is that the aforesaid Baron de Overbeck and Alfred Dent severally and jointly promise to pay to His Highness the Sultan Abdulmu'min xx his heirs and successors a quit-rent of the amount of six thousand dollars a year. The said territories and islands have from this date been granted to the said Baron de Overbeck and Alfred Dent Esquire their heirs associates successors and representatives holding this grant, to pay every year for so long as they shall desire to use these territories and islands. Provided however that if for three years they do not pay the quit-rent of this grant, this agreement shall be void and His Highness may resume all the above mentioned territories and islands.

xx Literally, "his children and grand-children".

This agreement is written at Brunei in the palace of His Highness the Sultan of Brunei on the 23rd day of the month of Zulhijjah, A.H.1294, i.e. on the 29th December, A.D. 1877.

Malay Transcript.

GRANT BY SULTAN OF BRUNEI OF TERRITORIES FROM THE SULAMAN RIVER TO THE RIVER PAITAN. Dated 29th December, 1877.

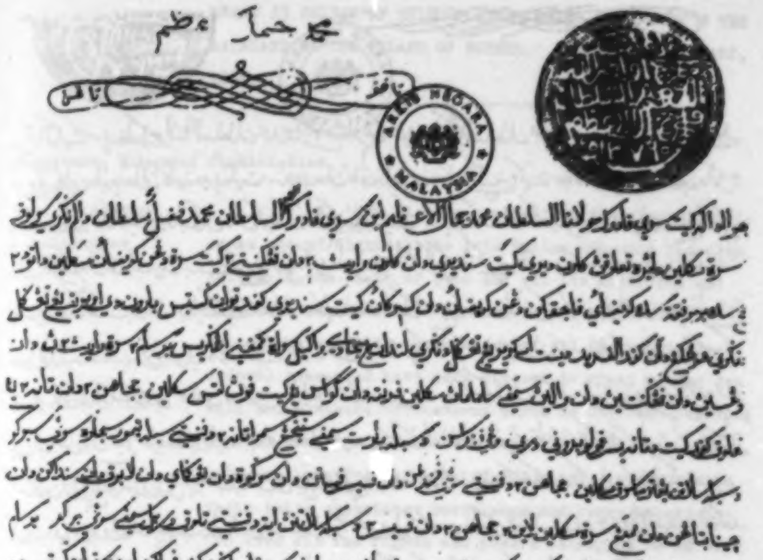
Seal of
Sultan Abdulmu'min
ibn al-marhum Sĕri Paduka
Maulana Abdulwahab
of Brunei.

Bahwa ada-lah kita Sĕri Paduka Maulana Bawah Duli Yang-di-pĕrtuan as-Sultan Abdulmu'min ibn al-marhum Sĕri Paduka Maulana Abdulwahab yang mĕmpunyai kuasa dan pĕrentah dalam nĕgĕri Bĕrunai darassalam tĕlah mĕnjakkan kapada Tuan Gustavus de Overbeck yang tinggal di-nĕgĕri Hong Kong dan kapada Alfred Dent Esquire yang tinggal di-nĕgĕri London bĕrsama-sama dan kapada kongsi-nya dan kapada pĕngganti-nya dan kapada wakil-nya akan sĕgala jajahan-jajahan yang kita punya ya-itu dari Sungai Sulaman di-sabĕlah barat laut nĕgĕri Bĕrunai sampai kapada Sungai Paitan di-sabĕlah timor laut pulau itu ya-itu mĕnjadi dua puloh satu jajahan-jajahan bĕrsama-sama dĕngan Pulau Banggi dan sakalian pulau-pulau di-dalam sĕmbilan mile dari tĕpi laut. Ada pun jajahan-jajahan dan pulau-pulau ini Bawah Duli Yang-di-pĕrtuan sĕndiri ĕmpunya. Maka sakalian tanah-tanah dan pulau-pulau ini sudah di-pajakkan oleh Bawah Duli Yang-di-pĕrtuan kapada Gustavus Baron de Overbeck dan kapada Alfred Dent Esquire akan di-pĕrbuat-nya sapĕrti mana-mana kĕsukaan hati-nya sahaja. Ada pun sĕbab tĕlah di-anugĕrahi akan pajakan ini, maka Gustavus Baron de Overbeck dan Alfred Dent Esquire yang tĕrsĕbut di-atas ini sa-orang diri-nya atau bĕrsama-sama bĕrjanji akan mĕmbayar hasil kapada Bawah Duli Yang-di-pĕrtuan Sultan Abdulmu'min dan kapada anak chuchu-nya ya-itu banyak-nya ĕnam ribu ringgit pada satu tahun. Ada pun jajahan-jajahan dan pulau-pulau yang tĕrsĕbut itu dari pada hari ini sudah di-pajakkan kapada Gustavus Baron de Overbeck dan kapada Alfred Dent Esquire yang tĕrsĕbut di-atas ini dan kapada warith-warith-nya dan kapada kongsi-nya dan kapada pĕngganti-nya dan kapada wali-nya yang mĕmĕgang pajakan ini akan mĕmbayar pada tiap-tiap tahun sampai sa-bĕrapa lama-nya yang dia-nya suka mahu pakai jajahan-jajahan dan pulau-pulau itu, tĕtapi jikalau di-dalam tiga tahun ia tiada mĕmbayar hasil pajakan itu, maka pĕchāh-lah pĕrjanjian ini dan Bawah Duli Yang-di-pĕrtuan boleh ambil balek sakalian jajahan-jajahan dan pulau-pulau yang tĕrsĕbut di-atas ini ada-nya.

Tĕrmaktub surat pĕrjanjian ini dalam nĕgĕri Bĕrunai di-lĕpau Bawah Duli Yang-di-pĕrtuan Sultan Bĕrunai kapada 25 hari bulan Zulhijjah sanat 1294 ya-itu kapada 29 hari bulan December tahun Masehi sanat 1877.

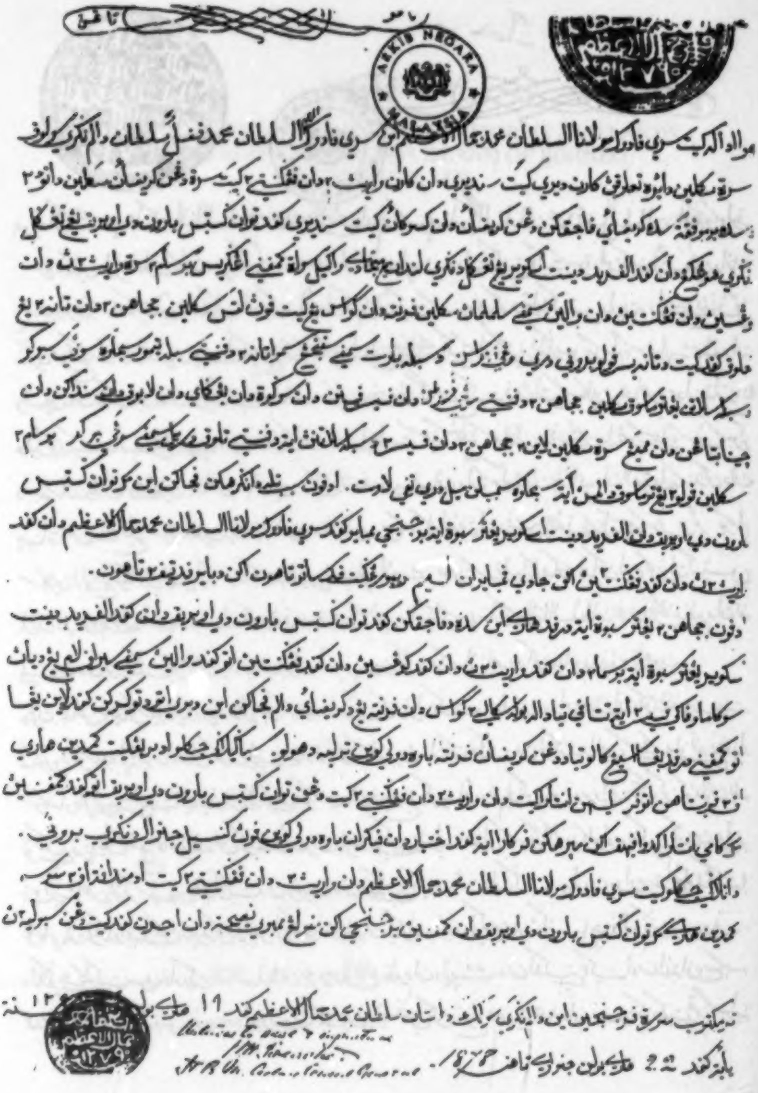
Annex MM 9

GRANT BY SULTAN OF SULU OF TERRITORIES AND LANDS ON THE MAINLAND OF THE ISLAND OF BORNEO, JANUARY 22, 1878



محمد جمال الاعظم

ARSIP NEGARA MALAYSIA



GRANT BY SULTAN OF SULU OF TERRITORIES AND LANDS ON THE MAINLAND OF THE ISLAND OF BORNEO. DATED 22nd JANUARY, 1878.

Translation.

Signature: Muhammad Jamaluladzam.

Great
Seal of Sultan
Muhammad
Jamaluladzam
of Sulu.

We, His Highness the Sultan Muhammad Jamaluladzam son of His Highness the late Sultan Muhammad Fadzalun, Sultan in the State of Sulu and all its districts and dependencies, on behalf of Ourself Our heirs and successors and with the consent of all the Dato's in council assembled have been pleased to grant of Our own will and pleasure to Gustavus Baron de Overbeck residing at Hong Kong and Alfred Dent Esquire residing in London, as representatives of a British Company, together with their heirs associates successors and representatives for ever all the rights and powers belonging to us over all the territories and lands which are tributary to us on the mainland of the island of Borneo from the Pandasan River on the west extending along all the lands on the east coast as far as the Sibuku River in the south and including all the territories on the coast of the Pandasan River and the coast lands of Paitan, Sugut, Bonggaya, Labuk, Sandakan, Kinabatangan, Mumiang, and all the other territories and coast lands to the southward thereof on the coast of Darvel Bay as far as the Sibuku River together with all the islands included therein within nine miles of the coast.

The consideration of this grant is that the said Baron de Overbeck and Alfred Dent promise to pay to His Highness the Sultan Muhammad Jamaluladzam his heirs and successors the sum of five thousand dollars a year payable every year.

The said territories have been granted from this date to the said Baron de Overbeck and Alfred Dent Esquire co-jointly their heirs associates and successors or representatives for as long as they desire to use these coastlands. Provided however that the rights and powers conferred by this grant shall never be transferred[xx] to any other nation or company of foreign nationality without the sanction of Her Britannic Majesty's Government first being obtained.

xx Literally, "given or exchanged".

Furthermore in case any dispute or difference shall arise hereafter between Us, Our heirs and successors, and Gustavus Baron de Overbeck or his Company both parties will submit the matter to the judgment and opinion of Her Britannic Majesty's Consul-General at Brunei.

Moreover if We, His Highness the Sultan Muhammad Jamaluladzam and Our heirs and successors should meet with any trouble hereafter, Gustavus de Overbeck and his Company promise to assist in giving us counsel and advice to the utmost of their power.

This agreement is written in Sulu at the palace of the Sultan Muhammad Jamaluladzam on the 19th day of Muharram, A.H.1295, i.e. the 22nd January, A.D. 1878.

Small Seal of	Witness to Seal and signature
Sultan Muhammad	S/d. W.H.Treacher.
Jamaluladzam of	H.B.M.Acting Consul General
Sulu.	in Borneo.

Malay transcript.

GRANT BY SULTAN OF SULU OF TERRITORIES AND LANDS ON THE MAINLAND OF THE ISLAND OF BORNEO. DATED 22nd JANUARY, 1878.

Muhammad Jamaluladzam Great Seal of Sultan Muhammad
tapak tengan Jamaluladzam dated A.H.1279.

Bahwa ada-lah kita Sĕri Paduka Maulana as-Sultan Muhammad Jamaluladzam ibn Sĕri Paduka al-marhum as-Sultan Muhammad Fadzalum Sultan dalam nĕgĕri Sulok sĕrta sakalian daerah taalok-nya kĕrana diri kita sĕndiri dan kĕrana warith-warith dan pĕngganti-pĕngganti kita sĕrta dĕngan kĕredzaan sakalian Dato'-dato' yang sudah bĕrmuafakat sudah kĕredzai pajakan dĕngan kĕredzaan dan kĕsukaan kita sĕndiri kapada Tuan Gustavus Baron de Overbeck yang tinggal di-nĕgĕri Hong Kong dan kapada Alfred Dent Esquire yang tinggal di-nĕgĕri London yang mĕnjadi wakil suatu Company Inggĕris bĕrsama-sama sĕrta warith-warith-nya/dan kongsi-nya dan pĕngganti-nya dan wali-nya sampai sa-lama-lama-nya sakalian pĕrentah dan kuasa yang kita punya atas sakalian jajahan-jajahan dan tanah-tanah yang taalok kapada kita di-tanah bĕsar Pulau Bĕrunai dari Sungai Pandasan di-sabĕlah barat sampai sa-panjang sĕmua tanah-tanah di-pantai sa-bĕlah timor sa-jauh Sungai Sibuku di-sabĕlah sĕlatan yang tĕrmasok sakalian jajahan-jajahan di-pantai Sungai Pandasan dan pĕsisir Paitan dan Sugut dan Bonggaya dan Labok dan Sandakan dan Chinabatangan dan Mumiang sĕrta sakalian lain-lain jajahan-jajahan dan pĕsisir-pĕsisir di-sabĕlah sĕlatan-nya itu di-pantai Tĕlok Darvel sampai Sungai Sibuku bĕrsama-sama sakalian pulau-pulau yang tĕrmasok dalam-nya itu sa-jauh sĕmbilan mile dari tĕpi laut. Ada pun sĕbab tĕlah di-anugĕrahkan pajakan ini maka Tuan Gustavus Baron de Overbeck dan Alfred Dent Esquire yang tĕrsĕbut itu bĕrjanji mĕmbayar

kapada Sĕri Paduka Maulana as-Sultan Muhammad Jamaluladzam dan kapada warith-warith-nya dan kapada pĕngganti-pĕngganti-nya akan jadi pĕmbayaran lima ribu ringgit pada satu tahun akan di-bayar pada tiap-tiap tahun.

Ada pun jajahan-jajahan yang tĕrsĕbut itu dari-pada hari ini sudah di-pajakkan kapada Tuan Gustavus Baron de Overbeck dan kapada Alfred Dent Esquire yang tĕrsĕbut itu bĕrsama-sama dan kapada warith-warith-nya dan kapada kongsi-nya dan kapada pĕngganti-nya atau kapada wali-nya sampai sa-bĕrapa lama yang dia-nya suka mau pakai pĕsisir-pĕsisir itu tĕtapi tiada-lah boleh sĕkali-kali kuasa dan pĕrentah yang di-kĕredzai dalam pajakan ini di-bĕri atau di-tukarkan kapada lain bangsa atau Company daripada bangsa asing kalau tiada dĕngan kĕredzaan pĕrentah Bawah Duli Queen tĕrlĕbeh dahulu. Sa-bagai lagi jikalau ada bĕrbangkit kĕmudian hari apa-apa pĕrbantahan atau pĕrsĕlisehan antara kita dan warith-warith dan pĕngganti-pĕngganti kita dĕngan Tuan Gustavus Baron de Overbeck atau kapada Company-nya maka kami antara kĕdua fihak akan mĕnyĕrahkan pĕrkara itu kapada ikhtiar dan pikiran Bawah Duli Queen punya Consul General di-nĕgĕri Bĕrunai. Dan lagi jikalau kita Sĕri Paduka Maulana as-Sultan Muhammad Jamaluladzam dan warith-warith dan pĕngganti-pĕngganti kita ada mĕndapat apa-apa susah kĕmudian hari maka Tuan Gustavus Baron de Overbeck dan Company-nya bĕrjanji akan mĕnolong mĕmbĕri nasihat dan ajaran kapada kita dĕngan sa-boleh-boleh-nya.

Tĕrmaktub surat pĕrjanjian ini dalam nĕgĕri Sulok di-istana Sultan Muhammad Jamalūladzam kapada 19 hari bulan Muharram sanat 1295 ya-itu kapada 22 hari bulan January tahun 1878.

Small Seal of Sultan Muhammad
Jamaluladzam dated A.H.1279.

Annex MM 10

COMMISSION FROM THE SULTAN OF SULU APPOINTING BARON DE OVERBECK, DATO' BENDAHARA AND RAJAH OF SANDAKAN,

JANUARY 22, 1878

COMMISSION FROM SULTAN OF SULU APPOINTING BARON DE OVERBECK DATO' BĔNDAHARA AND RAJAH OF SANDAKAN.

Dated 22nd January, 1878.

Translation

Great Seal
of Sultan
Muhammad
Jamaluladzam
of Sulu.

To all nations on the face of the earth and to whomsoever the matters hereinafter mentioned may come: We, His Highness the Sultan Muhammad Jamaluladzam son of His Highness the late Sultan Muhammad Fadzalun who possess power and sovereign authority in the State of Sulu and all its districts and dependencies together with all the Dato's in our dominions assembled in Council proclaim (as follows):-

Whereas We have validly granted unto Our trusty and well-beloved friends named Gustavus Baron de Overbeck and Alfred Dent Esquire certain lands in our dominions to wit all the lands towards the eastward on the coast on the Island of Borneo from the Pandasan River including all the territories on the coast of the Sibuku River and the coast lands of Paitan, Sugut, Bonggaya, Labok, Sandakan, Kinabatangan, and Mumiang, and the other lands and coast lands near Darvel Bay as far as the Sibuku River together with all the islands included therein in consideration of a quit rent which has been fixed and

Whereas the said Baron de Overbeck is the chief and representative of the Company in Borneo:

Now therefore know all men that We His Highness the Sultan Muhammad Jamaluladzam son of His Highness the late Sultan Muhammad Fadzalun Sultan in the State of Sulu have nominated and appointed the said Baron de Overbeck Dato' Bĕndahara and Rajah of Sandakan with the fullest power of life and death over all the inhabitants

[xx] Or, "products".

of these countries and over all matters that were Ours and over the[xx] revenues of these countries, with power to let these lands, as well as over things in the soil and plants and animals, with the rights of making laws coining money creating and maintaining soldiers and ships of war, levying taxes on goods in these countries and on goods of other nations and other taxes and dues on the inhabitants of these countries as he may deem fit and proper together with all powers properly exercised by sovereign rulers in general; and We have given and granted all this of Our own free will.

And we hereby notify to all foreign nations wit whom we have concluded friendly treaties and alliances and we command all the Dato's, Nobles Governors Chiefs and officials who have received powers from Us in the said coast lands to accept the said Dato' Bĕndahara as supreme ruler over the said dominions and to obey his commands as Our own. And if whatsoever God has willed should befall him and he cease from his function of bein Dato' Bĕndahara then the Company holding these territori may duly appoint in that office a Governor as his successor, to wit as Dato' Bĕndahara and Rajah of Sandak possessing all the powers above mentioned that have been procured by him.

This letter of authority is written in the Stat of Sulu at the palace of the Sultan Muhammad Jamaluladza on the 19th day of the month of Muharram, A.H.1295, i.e. on the 22nd day of January, A.D.1878.

Small Seal of
Sultan Muhammad
Jamaluladzam
of Sulu.

Signature: Muhammad Jamaluladzam.
Witness to Seal and signature
W.H.Treacher
H.B.M. Acting Consul General
in Borneo.

Malay
Transcript.

COMMISSION FROM SULTAN OF SULU APPOINTING BARON DE OVERBECK DATO' BĔNDAHARA AND RAJAH OF SANDAKAN.

Dated 22nd January, 1878.

Great Seal of
Sultan Muhammad Jamaluladzam
dated A.H.1279.

Kapada sĕgala bangsa yang ada di-atas bumi dan kapada barang-siapa yang akan datang pĕrkara yang tĕrsĕbut di-bawah ini bahwasa-nya ada-lah kita Sĕri Paduka Maulana as-Sultan Muhammad Jamaluladzam ibn al-marhum Sĕri Paduka as-Sultan Muhammad Fadzalun yang mĕmpunyai kuasa dan pĕrentah dalam nĕgĕri Sulok sĕrta sakalian daerah taalok-nya bĕsĕrta dĕngan sakalian Dato'-dato' dalam kĕrajaan kita yang sudah bĕrhimpun bĕrmuafakat ĕmpunya titah, bahwasa-nya ada-lah kita sudah pajakkan kapada sahabat kita yang kĕpĕrchayaan dan kĕkaseh kita yang bĕrnama Tuan Gustavus Baron de Overbeck dan kapada Alfred Dent Esquire dĕngan sah-nya akan tanah-tanah dalam kĕrajaan kita ya-itu sĕmua-nya tanah-tanah di-sabĕlah timor pantai Pulau Bĕrunai dari Sungai Pandasan yang tĕrmasok sakalian jajahan-jajahan di-tĕpi pantai Sungai Sibuku dan pĕsisir Paitan dan Sugut dan Bonggaya dan Labok dan Sandakan dan Chinabatangan dan Mumiang dan lain-lain tanah dan pĕsisir dĕkat Tĕlok Darvel sampai di-Sungai Sibuku bĕrsama-sama dĕngan sakalian pulau-pulau yang tĕrmasok dalam-nya itu kĕrana sĕbab dari-pada hasil pajakan yang tĕlah di-tĕntukan. Bahwasa-nya ada-lah Tuan Gustavus Baron de Overbeck itu-lah mĕnjadi kĕpala dan wali atas Company dalam Pulau Borneo maka sĕkarang ini kĕtahui-lah oleh sakalian orang bahwa ada-lah kita Sĕri Paduka Maulana as-Sultan Muhammad Jamaluladzam ibn al-marhum Sĕri Paduka as-Sultan Muhammad Fadzalun Sultan dalam nĕgĕri Sulok tĕlah mĕnjadikan dan mĕnĕntukan Tuan Gustavus Baron de Overbeck yang tĕrsĕbut itu Dato' Bĕndahara dan Raja Sandakan dĕngan sa-pĕnoh-pĕnoh kuasa hidup dan mati di-atas sĕgala orang isi nĕgĕri-nĕgĕri itu sĕrta di-atas sĕgala pĕrkara-pĕrkara yang kita punya dan di-atas hasil nĕgĕri-nĕgĕri itu dan ada bĕrkuasa akan mĕnyewakan tanah-tanah itu dan lagi atas bĕnda-bĕnda yang dalam tanah dan atas tumboh-tumbohan dan dan binatang-binatang sĕrta boleh pula mĕngadakan hukum-hukum dan mĕmbuat wang dan mĕmbuat dan mĕnaroh soldadu dan kapal-kapal pĕrang dan mĕngadakan chukai atas dagangan dalam nĕgĕri itu dan atas dagangan lain-lain bangsa asing dan lain-lain chukai dan bea atas orang-orang nĕgĕri itu sapĕrti yang di-fikirkan-nya patut dan harus bĕrsama-sama dĕngan sakalian kuasa yang bĕrpatutan yang di-lakukan oleh sakalian raja-raja yang mĕmĕrentah. Maka kita sudah anugĕrahi dan sĕrahkan sĕmua-nya itu dĕngan suka redza kita sĕndiri maka ini-lah kita mĕnyatakan kapada bangsa asing-asing yang tĕlah kita mĕngadakan pĕrjanjian sahabat bĕrsahabat dĕngan pĕrhubongan dan kita ĕmpunya titah kapada sakalian Dato'-dato' dan orang bĕsar-bĕsar dan pĕmĕrentah-pĕmĕrentah dan pĕgawai-pĕgawai yang ada mĕndapat kuasa daripada kita dalam pĕsisir-pĕsisir yang tĕrsĕbut itu hĕndak-lah ia mĕnĕrima Dato' Bĕndahara itu sapĕrti pĕnghulu pĕmĕrentah atas kĕrajaan yang tĕrsĕbut itu dan mĕnurut pĕrentah-nya sapĕrti kita sĕndiri maka jikalau datang sa-suatu masha' Allah ka-atas-nya dan ia bĕrhĕnti daripada pĕkĕrjaan-nya mĕnjadi Dato' Bĕndahara maka Company di-atas jajahan-jajahan itu boleh dĕngan sa-patut-nya dalam jawatan itu mĕnĕntukan Governor akan mĕnjadi ganti-nya ya-itu Dato' Bĕndahara dan Raja Sandakan sĕrta mĕmĕgang sakalian kuasa yang tĕrsĕbut di-atas ini yang tĕlah di-adakan-nya itu dĕmikian-lah ada-nya.

Tĕrmaktub surat kuasa ini dalam nĕgĕri Sulok di-istana Sultan Muhammad Jamaluladzam kapada 19 hari bulan Muharram sanat 1295 ya-itu kapada 22 hari bulan January tahun 1878.

Muhammad Jamaluladzam.
tapak tangan

Small Seal of Sultan Muhammad
Jamaluladzam dated A.H. 1279.

Annex MM 11

CONTRACT OF VASSALAGE BETWEEN THE NETHERLANDS AND THE SULTAN OF BOELOENGAN, JUNE 2, 1878

BOELOENGAN

DEEDS OF ENGAGEMENT AND OF CONFIRMATION AND CONTRACT

Deed of Engagement

I, Molana Mahomad Kahar Oedin, Prince of Boeloengan, solemnly promise that I will be faithful and true to the King of the Netherlands, and to the Governor-General of Netherlands India, as the King's Representative in these regions, and govern the Kingdom of Boeloengan which is ceded to me as a fief and as such by me accepted, with all zeal, attention, and devotedness for and on behalf of the Netherlands Indian Government, in accordance with the institutions and laws of the kingdom.

That I will sacredly and truly observe the agreements concluded between the Netherlands Indian Government and my predecessors;

That I will at all times be ready to come to an understanding with the Netherlands Indian Government concerning points not foreseen in those agreements, and which may hereafter appear to require regulation for the interests of the country, whilst I declare myself specially willing to enter upon a re-examination of the conventional stipulations now in force, to make them more accordant with the requirements of the present time.

And, moreover that, I will do everything that beseems a true and honourable Prince and vassal.

I have ratified this declaration on oath, sealed and signed it in presence of Jacobs, Josephus Meijer, Knight of the Order of the Netherlands Lion and of the Luxemburg Order of the Oaken Crown, Resident of the Southern and Eastern Division of Borneo, and in presence of the following Nobles; Radja Moeda, Datoe Marbahar, Pangeran Bandahara, Datoe Alam and Moekamat.

(Signed) MEIJER.
(Seal and signatures of the Prince and Nobles in
Arabic characters).

Deed of Confirmation

Whereas at a meeting in the capital of the kingdom held on the 31st October, 1874 by the Deputy Resident of Koetei and the east coast of Borneo, with the mantri's and other electors, the uncle of the late Prince of Boeloegan Datoe Alam Mohamad Chalifatoel Adil who died on the 30th April, 1874, was unanimously choosen to succeed him under the name of Molana Mohamad Kahar Oedin;

And whereas the aforesaid Molana Mohamad Kahar Oedin on this 2nd day of June of the year 1878, before me Jacobus Josephus Meijer, Knight of the Order of the Netherlands Lion and of the Luxemburg Order of the Oaken Crown, Resident of the Southern and Eastern Division of Borneo, has solemnly sworn, and in my presence sealed and signed the written Engagement annexed to this Deed;

Wherefore the aforesaid Molana Mohamad Kahar Oedin is hereby by me, in the name and on behalf of the Netherlands Indian Government, subject to the approval of the Governor-General of Netherlands India, solemnly confirmed in his dignity of Prince, of Boeloengan, and that under the name and title of Molana Mohamad Kahar Oedin, in witness whereof a copy of this Deed as well as of the written Engagement executed by him, shall be delivered to him as soon as these documents shall have been provided with the certificate of approval by the Governor-General.

(The birds -nests are only to be brought by the ("dajak") inhabitants of the uplands (the Basap tribes); the tripang and tortoiseshell by the other population, excepting the Badjoes).

This done at Boeloengan the day and year above written.

(Signed) MEIJER

These Deeds of Engagement and Confirmation are approved and rarified this 1st day of September of the year 1878.

(Signed) VAN LANSBERGE
Governor –General of Netherlands India

By order of the Governor-General
(Signed) SPRENGER VAN EYK, General-Secretary

[Contract between Jacobus Josephus Meijer, Knight, & C., and Mohamed Kahar Oedin, Sultan of Boeloengan and his Nobles, dated the 2nd June, 1878.

[Preamble and twenty-six Articles to the same effect as the Contract with Kottawaringin ratified the 18th October, 1878].

Description of the Boundaries of the Kingdom of Boeloengan, and Statement of the Islands belonging to it (in accordance with Article II of the Contract).

The boundaries of the Kingdom of Boeloengan are :-

Next Goenoeng Taboer from the sea strand inland the River Karantiegan, from its mouth to its source; then the Batoe Beoekkier and the mountain Palpakh.

Next the Solokh Possessions on sea the angle called Batoe Tinagat, and then the River Tawan.

The following islands belong, to Boeloengan, viz:-

Terekkan, Nanoekan, and Sebittikh, with the islets belonging thereto.

STATEMENT of the existing taxes in the Kingdom of Boeloengan (in accordance with Article 14 of the Contract).

A duty of 5 per cent on all imported and exported commercial goods.

Annex MM 12

PROTOCOL BETWEEN SPAIN AND SULU CONFIRMING THE BASES OF PEACE AND CAPITULATION, JULY 22, 1878

4.º [illegible]

[illegible]

6.º [illegible]

[illegible]

Los [illegible] 1878, en que se firmó este Tratado.

Protocol between Spain and Sulu confirming the Bases of Peace and Capitulation etc., signed at Jolo, 22 July 1878

THE English translation is reproduced from *British and Foreign State Papers*, vol. LXXII, p. 1105. The Spanish text of this Protocol is taken from Olivart, *Coleccion de los Tratados etc.*, vol. VII, p. 401.

4.° Sello.—Maja Radchalaut, Mujamed Dchaimal Abidin. 1295. (Firma).—Muhamed Dchaimal Abidin.

5.° Sello.—Muluc Bandarasa. 1295. (Firma).—Muluk Bandarasa, Muhamed Calusin Pulans.

Los números que se hallan en los sellos joloanos expresan los años de la Egira Mahometana: el 1279 del sello del Sultán (que es el 1862 de la Era Cristiana), indicará probablemente el de su advenimiento al trono: el 1295 de los demás sellos corresponde al año 1878, en que se firmó este Tratado.

ENGLISH TRANSLATION

Protocol drawn up as the Bases of Peace and Capitulation presented by the Sultan and Datus of Joló to His Majesty the King of Spain, Don Alfonso XII, through his Excellency the Governor Captain-General of the Philippines, recognizing the Sovereignty of Spain in the territory of that Sultanate.

There having assembled in the town of Licup (Joló), in the Palace of the Very Excellent the Sultan of the Archipelago, on the 22nd day of July, 1878 (23rd of the moon Rad Chab of the year of the Hegira 1295), the Politico-Military Governor of Joló, Colonel of the Line Don Carlos Martinez y Romero, the Commander of that division of the naval station, Colonel of Marine and Captain Francisco Fernandez de Alarcon y Garcia, and the Interpreters, Don Alejo Alvarez y Villasis and Don Pedro Ortuoste y Garcia, forming the Commission to represent in this Deed his Excellency the Governor Captain-General of the Philippine Islands, together with the Paduca Majasari Maulana, Sultan of Sulu, Mujamad Dchamasul Alam, and the Datus Paduca Mujamad Badarudin Rajah-muda, the Paduca Mujamad Dchinal Abidin Radchalant, the Paduca Datu Mujamad Jarum Narasid, and the Datu Paduca

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† Confirmed by Sultan Harun Narrasid of Sulu by letter addressed to the Queen-Regent of Spain on the 2nd October, 1886, published in the "Manila Gazette" of the 20th October, 1886.

Muluc Bandarasa, in the name and representing the Sultanate and its dependencies, with the object of reading and signing the Bases of Peace and Capitulation presented by the said Sultan and Datus to his Excellency the said Governor Captain-General on the 24th February of this year, approved by His Majesty the King Don Alfonso XII (whom God preserve) on the 3rd May last; the reading of the said bases was proceeded with as follows:—

Bases of Peace and Capitulation presented by the Sultan and Datus of Sulu to His Majesty the King of Spain, Don Alfonso XII, through his Excellency the Governor Captain-General of the Philippines, recognizing the Sovereignty of the King of Spain in the territory of the Sultanate.

Art. I. We declare as beyond discussion the sovereignty of Spain over all the Archipelago of Sulu and the dependencies thereof, and, as a natural consequence of this, we constitute ourselves loyal subjects of His Majesty the King, Don Alfonso XII, and of his successors in power.

II. The Government of Spain will grant me an annual subsidy of 2,400 dollars; to the heir of the Sultanate, Datu Badarudin, 700 dollars; and 600 dollars each to the Datus Paduca Datu Bad-chalant Dchimal Abidin, Paduca Datu Jarum Narasid, Paduca Datu Muluc Bandarasa Ansara Pula, who are of my Council, in order to recompense them in some measure for the losses they have suffered.

III. Spain assumes the right to occupy such points of the Sulu Archipelago and its dependencies as she may desire, respecting towns, families, and possessions, and in case of compulsory expropriation for the public good will indemnify the owners according to valuation. We solicit that the locality from Point Sinungan to Cadungdung on the south coast be excepted from this arrangement, to serve us as our residence, the Government being entitled to occupy the same in case of a foreign war.

IV. I shall be entitled to recover duties from merchants and foreign vessels trading to places not occupied by the establishments of the Government.

V. I shall be entitled to communicate direct with the Captain-General should I have occasion to make any complaint against the Governor or commanding officers of the navy.

VI. I shall be entitled to grant licenses for portable muzzle-loading fire-arms to such Sulus as solicit them, under the guarantee of two witnesses of known uprightness that they will be rightfully used afloat and ashore.

VII. I shall be authorized to issue a "pass," to Sulu vessels which, should they go beyond the Sulu Archipelago, will have previously to be presented to the Governor; but the principal Datus and some of my employés shall be excepted from this formality, I undertaking to indicate these to the said authority.

VIII. We shall endeavour to put a stop to the evil doings of pirates and malefactors, and, should we be unable to do so, will advise the Governor of Sulu when we have knowledge where such may be, but without responsibility if we have no such knowledge, so that he may take his measures; and we oblige ourselves to offer such assistance of every kind as may be in our power towards the prosecution of such pirates and malefactors.

IX. We shall be allowed the free exercise of our religion and customs; Catholic missionaries will have liberty to reside in and visit any point of Sulu and its dependencies, giving us notice, so that they may be accompanied in case of danger; without which notice we shall incur no responsibility for any misfortune which may happen. European or Indian Christians who desire to remain in the country will act similarly.

X. We undertake to deliver up Christian criminals and delinquents; and, in like manner, natives ("Moros") similarly situated shall be returned to us.

XI. Sulu and its dependencies shall hoist the Spanish flag in their towns and vessels. If any of these latter do not carry a flag, no penalty will be applied if they have the necessary "pass;" and I shall use the Government flag where I reside.

XII. We oblige ourselves, as does the Government, to fulfil faithfully what is stipulated, and we implore that any doubt or difference which may arise be carefully and duly inquired into before proceeding to the use of arms.

XIII. All that is expressed in the foregoing Agreement will remain unaltered, except by mutual consent.

I conform in all respects to the above as read, as containing the aforesaid bases. Copies to remain in possession of the said Governor and of the Sultan of Sulu. This Protocol was signed by them and their followers at the place and on the day, month, and year cited at the beginning.

The Sultan of Sulu. [Rubric and Seal.]
CARLOS MARTINEZ, *Governor of Sulu.*
JARUM NARASID, *Mujamad.*
FRANCISCO FERNANDEZ DE ALARCON Y GARCIA, *Commander of the Naval Station.*
DCHINAL ABIDIN, *Mujamad.*
BADARUDIN, *Mujamad.*
PULAUS, *Mujamad.*

Interpreters:
ALEJO ALVAREZ.
PEDRO ORTUOSTE.

Don Domingo Moriones y Murillo, Lieutenant-General of the National Army, Marquis of Oroquieta, Knight Grand Cross of the Royal Military Order of Saint Hermenegildo, of the Royal and Distinguished Order of Charles III, of the Red and White Military Order of Merit, and of various others for war services, Captain-General of the Philippine Islands. In the name of His Majesty the King of Spain, Don Alfonso XII (whom God preserve), I approve, confirm, and ratify the foregoing Protocol of Peace and Agreement in all its parts.

Manila, August 15, 1878.

DOMINGO MORIONES.

Annex MM 13

GRANTING OF ROYAL CHARTER TO THE BRITISH NORTH BORNEO COMPANY, AUGUST 26, 1881

Inclosure in No. 192.

Order in Council passed August 26, 1881.

At the Court at Holyrood Palace, the 26th day of August, 1881.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS there was this day read at the Board a Report of a Committee of the Lords of Her Majesty's Most Honourable Privy Council, dated the 18th day of August, 1881, in the words following, viz.:—

"Your Majesty having been pleased, by your Order of the 15th July last, to refer unto this Committee a Petition of Mr. Alfred Dent and others, praying for the grant of a Charter of Incorporation to the British North Borneo Company, the Lords of the Committee, in obedience to your Majesty's sail Order of Reference, have this day taken the said Petition into consideration, and do agree humbly to report as their opinion to your Majesty that a Charter may be granted by your Majesty in terms of the draft hereunto annexed."

Her Majesty, having taken into consideration the said Report, and the draft Charter accompanying it, was pleased, by and with the advice of her Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable the Earl Granville, one of Her Majesty's Principal Secretaries of State, do cause a Warrant to be prepared for Her Majesty's Royal Signature, for passing under the Great Seal of the United Kingdom a Charter in conformity with the said draft, which is hereunto annexed.

(Signed) C. L. PEEL.

[*Note.*—For the Charter as finally issued, see letter to Mr. Dent of November 1, 1881; *infra*, No. 193.]

Annex MM 14

CHARTER OF INCORPORATION
OF THE BRITISH NORTH BORNEO COMPANY,
NOVEMBER 1, 1881

CHARTER OF THE BRITISH NORTH BORNEO COMPANY.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To all to whom these presents shall come Greeting.

WHEREAS an Humble Petition has been presented to Us in our Council by Alfred Dent, of 11, Old Broad Street, in the City of London, Merchant; the British North Borneo Provisional Association, Limited; Sir Rutherford Alcock, of 14, Great Queen Street, in the City of Westminster, Knight Commander of Our Most Honourable Order of the Bath; Richard Biddulph Martin, of 68, Lombard Street, in the City of London, Banker, a Member of the Commons House of Parliament; Richard Charles Mayne, Companion of our Most Honourable Order of the Bath, a Rear-Admiral in our Navy; and William Henry Macleod Read, of 25, Durham Terrace, in the County of Middlesex, Merchant.

And whereas the said Petition states (among other things) to the effect that on the 29th day of December, 1877, the Sultan of Brunei, in the Island of Borneo, made and issued to the Petitioner, Alfred Dent and another, or one of them, three several grants of territories, lands, and islands therein mentioned, and a commission.

And whereas the said Petition further states that by the first of the grants aforesaid the Sultan of Brunei granted to the grantees co-jointly their heirs associates successors or assigns all the territory and land belonging to the Sultan on the West Coast of Borneo comprising Gaya Bay from Gaya Head to Loutut Point including Sapangar Bay and Gaya Bay and Sapangar Island and Gaya Island and all the other islands within the limits of the harbour and within three marine leagues of the coast, likewise the province and territory of Pappar adjoining the province of Benoni and belonging to the Sultan as his private property; and in consideration of that grant the grantees promised to pay severally and co-jointly to the Sultan his heirs or successors the sum of four thousand dollars per annum; and by that grant the said territories were from the date thereof declared vested in the grantees their heirs associates successors or assigns for so long as they should choose and desire to hold them; provided however that the Sultan should have the right to resume the control and government of the said territories if the above-mentioned annual compensation should not have been paid for three successive years.

And whereas the said Petition further states that by the second of the grants aforesaid the Sultan of Brunei granted to the grantees co-jointly their heirs associates successors or assigns all the territories belonging to the Sultan from the Sulaman River on the north-west coast of Borneo unto the River Paitan on the north-east coast of the island containing twenty-one states together with the island of Banguey and all the other islands within three marine leagues of the coast for their own exclusive uses and purposes; and in consideration of that grant the grantees promised to pay severally and co-jointly to the Sultan his heirs or successors the sum of six thousand dollars per annum; and by that grant the said territories were from the date thereof declared vested in the grantees their heirs associates successors or assigns for so long as they should choose to hold them; provided however that the Sultan should have the right to resume the control and government of the said territories if the above-mentioned annual compensation should not have been paid for three successive years.

And whereas the said Petition further states that by the third of the grants aforesaid the Sultan of Brunei granted to the grantees their heirs associates successors or assigns all the following territories belonging to the kingdom of Brunei and comprising the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kina Batangan, Mumiang, and all the territories as far as the Sibuco River with all the islands within three leagues of the coast belonging thereto for their own exclusive and absolute uses and purposes; and in consideration of that grant the grantees promised to pay co-jointly and severally as compensation the sum of two thousand dollars per annum; and from that date the said territories were thereby declared vested in the grantees their heirs associates successors and assigns for so long as they should choose or desire to hold them; provided however that the Sultan should have the right to resume the control and government of the said territories if the above-mentioned annual compensation should not have been paid for three successive years.

And whereas the said Petition further states that by the commission aforesaid, after reciting to the effect that the Sultan of Brunei had seen fit to grant to his trusty and well-beloved friends the grantees certain portions of the dominions owned by him comprising the entire northern portion of the island of Borneo from the Sulaman River on the west coast to Maludu Bay and to the River Paitan and thence the entire eastern coast as far as the Sibuco River, comprising the States of Paitan, Sugut, Bangayan, Labuk, Sandakan, Kina Batangan, and Mumiang, and other lands as far as Sibuco River furthermore the provinces of Kimanis and Benoni, the province of Pappar, and the territory of Gaya Bay and Sapangar Bay with all the land and islands belonging thereto and likewise the island of Banguey for certain considerations between them agreed, and that one of the grantees therein in that behalf named was the chief and only authorized representative of his company in Borneo; it was declared that the Sultan had nominated and appointed and thereby did nominate and appoint the same grantee supreme ruler of the above-named territories with the title of Maharajah of Sabah (North Borneo) and Rajah of Gaya and Sandakan with power of life and death over the inhabitants with all the absolute rights vested in the Sultan over the soil of the country and the right to dispose of the same as well as the rights over the productions of the country whether mineral vegetable or animal with the rights of making laws coining money creating an army and navy levying customs rates on home and foreign trade and shipping and other dues and taxes on the inhabitants as to him might seem good or expedient together with all other powers and rights usually exercised by and belonging to sovereign rulers and which the Sultan thereby delegated to him of his own free will; and the Sultan called upon all foreign nations with whom he had formed friendly treaties and alliances to acknowledge the said Maharajah as the Sultan himself in the said territories and to respect his authority therein; and in case of the death or retirement from office of the said Maharajah then his duly appointed successor in the office of supreme ruler and governor-in-chief of the Company's territories in Borneo should likewise succeed to the office and title of Maharajah of Sabah and Rajah of Gaya and Sandakan and all the powers above enumerated to be vested in him.

And whereas the said Petition further states that on the same day the Pangeran Tumongong (Chief Minister) of Brunei made to the same two persons their heirs associates successors or assigns a grant of the provinces of Kimanis and Benoni on the north-west coast of Borneo with all the islands belonging thereto within three marine leagues of the coast the said territories belonging to him as his private property to hold for their own exclusive and absolute uses and purposes; and in consideration of that grant the grantees promised to pay as compensation to the Pangeran Tumongong his heirs or successors the sum of three thousand dollars per annum; and the said territories were thereby declared vested in the grantees their heirs associates successors or assigns for so long as they should choose or desire to hold them; and they further promised to protect the Pangeran Tumongong with kindness.

And whereas the said Petition further states that on the 22nd day of January, 1878, the Sultan of Sooloo and the dependencies thereof (in the said Petition and in this Our Charter referred to as the Sultan of Sooloo) made and issued to the same two persons, or one of them, a grant of his rights and powers over territories lands states and islands therein mentioned, and a commission.

And whereas the said Petition further states that by the last-mentioned grant the Sultan of Sooloo on behalf of himself his heirs and successors and with the consent and advice of the Datoos in Council assembled granted and ceded of his own free and sovereign will to the grantees as representatives of a British Company co-jointly their heirs associates successors and assigns for ever and in perpetuity all the rights and powers belonging to the Sultan over all the territories and lands being tributary to him on the mainland of the island of Borneo commencing from the Pandassan River on the north-west coast and extending along the whole east coast as far as the Sibuco River in the south and comprising amongst others the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kina Batangan, Mumiang and all the other territories and states to the southward thereof bordering on Darvel Bay and as far as the Sibuco River with all the islands within three marine leagues of the coast; and in consideration of that grant the grantees promised to pay as compensation to the Sultan his heirs or successors the sum of five thousand dollars per annum; and the said territories were thereby declared vested in the grantees co-jointly their heirs associates successors or assigns for as long as they should choose or desire to hold them; provided however that the rights and privileges conferred by that grant should never be transferred to any other nation or company of foreign nationality without the sanction of Our Government first being obtained; and in case any dispute should arise between the Sultan his heirs or successors and the grantee therein in that behalf specified or his Company the matter should be submitted to Our Consul-General for Borneo; and that grantee on behalf of himself and his Company further promised to assist the Sultan his heirs or successors with his best counsel and advice whenever the Sultan might stand in need of the same.

And whereas the said Petition further states that by the last-mentioned commission, after reciting to the effect that the Sultan of Sooloo had seen fit to grant unto his trusty and well-beloved friends the grantees certain portions of the dominions owned by the Sultan comprising all the lands on the north and east coast of the Island of Borneo from the Pandassan River on the north-west to the Sibuco River on the east coast including amongst others the states of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kina Batangan and Mumiang, and all the lands and territories in Darvel Bay as far as the Sibuco River together with all the islands belonging thereto for certain considerations between them agreed, and that one of the grantees therein in that behalf named was the chief and only authorized representative of his Company in Borneo, it was declared that the Sultan of Sooloo had nominated and appointed and thereby did nominate and appoint the same grantee supreme and independent ruler of the above-named territories with the title of Datu Bandahara and Rajah of Sandakan with absolute power of life and death over the inhabitants of the country with all the absolute rights of property over the soil of the country vested in the Sultan and the right to dispose of the same as well as the rights over the productions of the country whether mineral vegetable or animal, with the rights of making laws coining money creating an army and navy levying custom dues on home and foreign trade and shipping and other dues and taxes on the inhabitants as to him might seem good or expedient together with all other powers and rights usually exercised by and belonging to sovereign rulers and which the Sultan thereby delegated to him of his own free and sovereign will; and the Sultan called upon all foreign nations with whom he had formed friendly treaties or alliances, and he commanded all the Datoos Nobles Governors Chiefs and People owing allegiance to him in the said territories, to receive and acknowledge the said Datu Bandahara as supreme ruler over the said States and to obey his commands and respect his authority therein as the Sultan's own; and in case of the death or retirement from office of the said Datu Bandahara then his duly appointed successor in the office of supreme ruler and governor-in-chief of the Company's territories in Borneo should likewise if appointed thereto by the Company succeed to the title of Datu Bandahara and Rajah of Sandakan and all the powers above enumerated be vested in him.

And whereas the said Petition further states that all the interests and powers of the grantees under the several grants and commissions aforesaid came to be vested in the Petitioner Alfred Dent.

And whereas the said Petition further states that the Petitioner Alfred Dent and his associates from time to time of necessity expended large sums of money and made great exertions in and about procuring the grants and commissions aforesaid and putting them into use and discharging the obligations arising thereunder.

And whereas the said Petition further states that the Petitioner The British North Borneo Provisional Association, Limited, consists of persons who lately agreed to join together for the temporary purposes of acting as intermediaries between the Petitioner Alfred Dent, on the one hand, and a Company to be incorporated (if We should so think fit) by Royal Charter, on the other hand, and of carrying on until the grant of such a Charter the management of the affairs arising under the grants and commissions aforesaid, and who, for convenience of common action and for limitation of liability, have incorporated themselves under the general Statutes relating to companies, that Provisional Association having for its objects as declared by its Memorandum of Association (among others) the following (that is to say):

To purchase from Alfred Dent his interest and powers in over and affecting territories, lands, and property in Borneo, and islands lying near thereto, including Labuan.

To acquire by purchase or other lawful means other interests and powers, in over and affecting the same territories, lands, and property, and interests and powers in over or affecting other territories, lands, and property in the region aforesaid.

To obtain from the Crown a charter incorporating and regulating a Company constituted with the like objects as aforesaid, or other objects relating to any territories, lands, and property as aforesaid.

To transfer to the Company so incorporated any interests and powers as aforesaid for the time being vested in the Association.

And whereas the said Petition further states that all the interests and powers of the Petitioner Alfred Dent under the several grants and commissions aforesaid have been transferred to and are now vested in the Petitioner, the British North Borneo Provisional Association, Limited.

And whereas the said Petition further states that that Association will, in accordance with its provisional character indicated in its name, and in pursuance of the express provisions of its Articles of Association, be voluntarily wound up in manner provided by Statute, as soon as a sale or disposal of its territories, lands, and property to a Company to be incorporated (if We should so think fit) by Royal Charter has been effected, and will, after payment and discharge of its debts and liabilities, and after distribution among its members of the proceeds of such sale or disposal and of any other its assets, be dissolved.

And whereas the said Petition further states that the Petitioners Sir Rutherford Alcock, Richard Biddulph Martin, Richard Charles Mayne, and William Henry Macleod Read, are, with the Petitioner Alfred Dent, the Directors of that Association.

And whereas the said Petition represents that the success of the enterprise in which the Petitioners are engaged as aforesaid would be greatly advanced if it should seem fit to Us to incorporate by Our Royal Charter a Company to carry on that enterprise.

And whereas the said Petition further represents that such a Chartered Company would render to Our Dominions services of much value, and would promote the commercial prosperity of many of Our subjects.

And whereas the said Petition further represents that the Petitioners are in a position to raise the capital requisite for the proper and effective conduct of the enterprise aforesaid, and they thereby undertake to do so on obtaining the grant of such a Charter.

And whereas by the said Petition the Petitioners therefore most humbly pray that We will be graciously pleased to grant Our Royal Charter for incorporating a Company to carry on the enterprise aforesaid by such name and with such powers and privileges and subject to such conditions as to Us may seem meet.

Now Therefore We, having taken the said Petition into Our Royal consideration in Our Council, and being satisfied that the intentions of the Petitioners are praiseworthy and deserve encouragement, and that the enterprise in the Petition described may be productive of much benefit to Our Dominions and to many of Our subjects, by Our Prerogative Royal and of Our especial grace certain knowledge and mere motion have constituted erected and incorporated, and by this Our Charter for Us and Our Heirs and Royal Successors do constitute erect and incorporate, into one body politic and corporate, by the name of The British North Borneo Company, the said Alfred Dent, Sir Rutherford Alcock, Richard Biddulph Martin, Richard Charles Mayne, and William Henry Macleod Read, and such other persons and such bodies as from time to time become and are members of that body, with perpetual succession, and a common seal, with power to alter or renew the same at discretion, and with the further authorities powers and privileges conferred and subject to the conditions imposed by this Our Charter; and We do hereby accordingly will, ordain and declare as follows (that is to say):

Transfer to Company of Grants and Commissions.

1.—The said British North Borneo Company (in this Our Charter referred to as the Company) is hereby authorized and empowered to acquire by purchase or other lawful means from the British North Borneo Provisional Association, Limited, the full benefit of the several grants and commissions aforesaid, or any of them, as the same is vested in that Association, and all interests and powers of that Association thereunder, and all interests and powers vested in that Association in over or affecting the territories lands and property comprised in those several grants, or in over or affecting any territories lands or property in Borneo or in any island lying near thereto, including Labuan, and to hold use enjoy and exercise the same for the purposes and on the terms of this Our Charter.

Fulfilment by Company of Promises of Grantees.

2.—The Company, as representing the original grantees under the several grants aforesaid, shall be bound by and shall fulfil the promises of payment and other promises therein made, subject to any subsequent agreement affecting those promises.

British character of Company.

3.—The Company shall always be and remain British in character and domicile, and shall have its principal office in England; and all the members of its Court of Directors or other governing body and its principal representative in Borneo shall always be natural-born British subjects or persons who have been naturalized as British subjects by or under an Act of the Parliament of Our United Kingdom.

Restriction on Transfer by Company.

4.—The Company shall not have power to transfer, wholly or in part, the benefit of the grants and commissions aforesaid or any of them except with the consent of one of Our Principal Secretaries of State (in this Our Charter referred to as Our Secretary of State).

Differences with Sultans.

5.—In case at any time any difference arises between the Sultan of Brunei or the Sultan of Sooloo and the Company, that difference shall on the part of the Company be submitted to the decision of Our Secretary of State, if he is willing to undertake the decision thereof.

Foreign Powers.

6.—If at any time Our Secretary of State thinks fit to dissent from or object to any of the dealings of the Company with any Foreign Power, and to make to the Company any suggestion founded on that dissent or objection, the Company shall act in accordance therewith.

Slavery.

7.—The Company shall to the best of its power discourage, and, as far as may be practicable, abolish by degrees, any system of domestic servitude existing among the tribes of the coast or interior of Borneo; and no foreigner, whether European, Chinese, or other, shall be allowed to own slaves of any kind in the Company's territories.

Religions of Inhabitants.

8.—The Company as such, or its officers as such, shall not in any way interfere with the religion of any class or tribe of the people of Borneo, or of any of the inhabitants thereof.

Administration of Justice to Inhabitants.

9.—In the administration of justice by the Company to the people of Borneo, or to any of the inhabitants thereof, careful regard shall always be had to the customs and laws of the class or tribe or nation to which the parties respectively belong, especially with respect to the holding possession transfer and disposition of lands and goods, and testate or intestate succession thereto, and marriage divorce and legitimacy, and other rights of property and personal rights.

Treatment of Inhabitants, generally.

10.—If at any time Our Secretary of State thinks fit to dissent from or object to any part of the proceedings or system of the Company relative to the people of Borneo, or to any of the inhabitants thereof, in respect of slavery or religion or the administration of justice or other matter, and to make to the Company any suggestion founded on that dissent or objection, the Company shall act in accordance therewith.

Jurisdiction over British Subjects and in Mixed Cases.

11.—In case at any time We think fit to make provision by Order in Our Council for the exercise and regulation of Our extra-territorial jurisdiction and authority in Borneo and to appoint any of the Company's officers to discharge judicial or other functions thereunder in Our name, then and so long the Company shall provide all court-houses and establishments necessary or proper in that behalf, and bear all expenses of the exercise of the jurisdiction or authority which those officers are so appointed to exercise.

Facilities for British National Ships.

12.—The Company shall freely afford all facilities requisite for Our ships in the harbours of the Company.

Appointment of Company's principal representatives

13.—The appointment by the Company of the Company's principal representative in Borneo shall always be subject to the approval of Our Secretary of State.

14.—The Company may hoist and use on its buildings and elsewhere in Borneo and on its vessels such distinctive flag indicating the British character of the Company as our Secretary of State and the Lords Commissioners of the Admiralty from time to time approve.

General Powers of Company.

15.—The Company is hereby further authorized and empowered:

(*i.*) To acquire and take by purchase cession or other lawful means, other interests or powers in, over, or affecting the territories, lands, or property comprised in the several grants aforesaid, or any interests or powers whatever in over or affecting other territories, lands, or property in the region aforesaid; and to hold, use, enjoy, and exercise the same for the purposes and on the terms of this Our Charter.

(*ii.*) To improve, develop, clear, plant and cultivate any territories and lands comprised in the several grants aforesaid, or otherwise acquired under this Our Charter.

(*iii.*) To make and maintain therein roads, harbours, railways, telegraphs, and other public and other works, and carry on therein mining and other industries.

(*iv.*) To settle any such territories and lands as aforesaid and to aid and promote immigration into the same.

(*v.*) To grant any lands therein for terms or in perpetuity absolutely or by way of mortgage or otherwise.

(*vi.*) To make therein exclusive or other concessions of mining forestal or other rights.

(*vii.*) To farm out for revenue purposes the right to sell in the Company's territories spirits tobacco opium salt or other commodities.

(*viii.*) To make loans or contributions of money or money's worth for promoting any of the objects of the Company.

(*ix.*) To acquire and hold or charter or otherwise deal with steam-vessels and other vessels.

(*x.*) To acquire and hold any personal property.

(*xi.*) To deal in merchandise, the growth produce or manufacture of the Company's territories, or other merchandise.

(*xii.*) To carry on any lawful commerce trade or dealing whatever in connection with any of the objects of the Company.

(*xiii.*) To establish and maintain agencies in Our Colonies and Possessions and elsewhere.

(*xiv.*) To act as agent in the region aforesaid for any other Company or body or any person.

(*xv.*) To sue and be sued by the Company's name of incorporation as well in Our Courts in Our United Kingdom, or in Our Courts in Our Colonies or Possessions, or in Our Courts in foreign countries, as elsewhere.

(*xvi.*) To take and hold, without licence in mortmain or other authority than this Our Charter, messuages and hereditaments in England and in any of Our Colonies or Possessions and elsewhere, convenient for carrying on the management of the affairs of the Company, and to dispose from time to time of any such messuage and hereditaments when not required for that purpose.

(*xvii.*) To do all lawful things incidental or conducive to the exercise or enjoyment of the authorities and powers of the Company in this Our Charter expressed or referred to or any of them.

Questions of Title.

16.—If at any time Our Secretary of State thinks fit to object to the exercise by the Company of any authority or power within any part of the territories comprised in the several grants aforesaid, or otherwise acquired under this Our Charter, on the ground of there being an adverse claim to that part, the Company shall defer to that objection.

Prohibition of Monopoly.

17.—Nothing in this Our Charter shall be deemed to authorize the Company to set up or grant any general monopoly of trade; and subject only to customs duties imposed for revenue purposes, and to restrictions on importation similar in character to those applicable in Our United Kingdom, trade with the Company's territories shall be free.

Deed of Settlement.

18.—Within one year after the date of this Our Charter there shall be executed by the members of the Company for the time being a Deed of Settlement providing for—

(*i.*) The amount and division of the Capital of the Company and the calls to be made in respect thereof.

(*ii.*) The registration of members of the Company.

(*iii.*) The preparation and the circulation among the members of annual accounts.

(*iv.*) The audit of those accounts by independent auditors.

(*v.*) The making of Bye-laws.

(*vi.*) The making and using of official seals of the Company.

(*vii.*) The winding up (in case of need) of the Company's affairs.

(*viii.*) Any other matters usual or proper to be provided for in respect of a Chartered Company.

19.—The Deed of Settlement shall before the execution thereof be submitted to and approved by the Lords of Our Council, and a certificate of their approval thereof signed by the Clerk of Our Council shall be indorsed on this Our Charter and on the Deed of Settlement.

20.—The provisions of the Deed of Settlement may be from time to time varied or added to by a Supplementary Deed made and executed in such manner and subject to such conditions as the Deed of Settlement prescribes.

And We do further will ordain and declare that this Our Charter shall be acknowledged by Our Governors, and Our Naval and Military Officers, and Our Consuls, and Our other Officers, in Our Colonies and Possessions, and on the High Seas, and elsewhere, and they shall severally give full force and effect to this Our Charter, and shall recognise and be in all lawful things aiding to the Company and its officers.

And We do further will ordain and declare that this Our Charter shall be taken construed and adjudged in the most favourable and beneficial sense for and to the best advantage of the Company as well in Our Courts in Our United Kingdom, and in Our Courts in Our Colonies or Possessions, and in Our Courts in foreign countries, as elsewhere, notwithstanding that there may appear to be in this Our Charter any non-recital, mis-recital, uncertainty or imperfection.

And We do lastly will ordain and declare that in case at any time it is made to appear to Us in Our Council that the Company has failed to comply with any material condition by this Our Charter prescribed, it shall be lawful for Us, Our Heirs and Successors, and We do hereby expressly reserve and take to Ourselves Our Heirs and Successors the right and power by writing under the Great Seal of Our United Kingdom, to revoke this Our Charter, without prejudice to any power to repeal the same by law belonging to Us or Them, or to any of Our Courts Ministers or Officers, independently of this present declaration and reservation.

BEST COPY AVAILABLE

In witness whereof We have caused these Our letters to be made patent.

Witness Ourselves at Our Palace at Westminster, the first day of November, in the forty-fifth year of Our reign.

BY HER MAJESTY'S COMMAND.

CARDEW.

THE GREAT SEAL.

Annex MM 15

PROTOCOL BETWEEN BRITAIN, GERMANY AND SPAIN, MARCH 7, 1885

BRITISH NORTH BORNEO, 1885.

PROTOCOL OF 1885.

The undersigned, Sir Robert B. D. Morier, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, his Excellency Don Jose Elduayen, Marquis del Pazo de la Merced, Minister of State of his Majesty the King of Spain, and Count Solms Sonnenwale, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the German Emperor, duly authorised to bring to a close the negotiations conducted in London and at Berlin during the years 1881–82 by the Representatives of his Majesty the King of Spain at the Courts of Great Britain and Germany, for the purpose of obtaining from these two Powers the formal recognition of the sovereignty of Spain over the Archipelago of Sulu (Jolo), have agreed upon the following Articles :—

Article I.

The Governments of Great Britain and of Germany recognise the sovereignty of Spain over the places effectively occupied, as well as over those places not yet occupied, of the Archipelago of Sulu (Jolo), of which the limits are laid down in Article II.

Article II.

The Archipelago of Sulu (Jolo), conformably to the definition contained in Article I of the treaty signed September 23rd, 1836, between the Spanish Government and the Sultan of Sulu (Jolo), comprises all the islands which are found between the western extremity of the island of Mindanao on the one side, and the continent of Borneo and the Island of Paragua on the other side, with the exception of those which are indicated in Article III.

It is understood that the Islands of Balabac and of Cagayan-Jolo form part of the archipelago.

ARTICLE III.

The Spanish Government renounces, as far as regards the British Government, all claims of sovereignty over the territories of the continent of Borneo, which belong, or which have belonged in the past to the Sultan of Sulu (Jolo), and which comprise the neighbouring islands of Balambangan, Banguey, and Malawali, as well as all those comprised within a zone of three maritime leagues from the coast, and which form part of the territories administered by the company styled the "British North Borneo Company."

ARTICLE IV.

The Spanish Government engages to carry out, in the Archipelago of Sulu (Jolo), the stipulations contained in Articles I, II, and III of the Protocol signed at Madrid, March 11th, 1877, that is to say: "(1) The commerce and the direct traffic of vessels and subjects of Great Britain, Germany, and the other powers, with the Archipelago of Sulu (Jolo), and in all parts thereof, are declared to be, and shall be, absolutely free; as well as the right of fishing, without prejudice to the rights of Spain recognised by the present Protocol, conformably to the following declarations. (2) The Spanish authorities shall not be able to require in future that vessels and subjects of Great Britain, Germany, and the other Powers, freely repairing to the Archipelago of Sulu, or from one point of it to another indiscriminately, or thence to any other part of the world, shall be under the necessity of touching, before or after, at a point indicated in the archipelago or elsewhere; or of paying any dues whatsoever; or of procuring permission from the said authorities; who, on their side, shall abstain from all obstruction and all intervention in the above-named traffic. It is well understood that the Spanish authorities shall not hinder in any manner, or under any pretext, the free importation and exportation of all kinds of merchandise without exception, save at such places as are occupied, and conformably to Declaration III; and that in all the places not effectively occupied by Spain, neither the vessels, nor the subjects above-mentioned, nor their merchandise, shall be submitted to any tax or duty or payment whatever, nor to any regulation, sanitary or otherwise. (3) In those places in the Archipelago of Sulu, which are occupied by Spain, the Spanish Government shall be able to establish taxes and regulations, sanitary or otherwise, during the effective occupation of the places indicated.

But Spain, on its side, engages to maintain in those places the establishment and employees necessary for the needs of commerce, and for the application of the said regulations.

"It is, nevertheless, expressly understood, and the Spanish Government being resolved on its side not to apply restrictive regulations to the places occupied, undertakes the engagement willingly, that it shall not introduce in the said places any taxes or duties greater than those fixed by the Spanish tariffs, or by the Treaties or Conventions between Spain and any other Power. It shall not, moreover, put into force exceptional regulations applicable to the commerce or to the subjects of Great Britain, Germany, or the other Powers.

"In case Spain shall effectively occupy other places in the Archipelago of Sulu, maintaining there the establishments and employees necessary for the needs of commerce, the Government of Great Britain and of Germany shall make no objection to the application of the same rules agreed upon for the places already occupied. But in order to prevent new cases of claims which might arise from the uncertainty as to trade with places which are occupied, and which are subject to regulations and tariffs, the Spanish Government shall communicate in each case the effective occupation of a place in the Archipelago of Sulu to the Governments of Great Britain and of Germany, and shall, at the same time, inform the trading interest concerned by a suitable notification published in the official journals of Madrid and Manila. As regards the tariffs and regulations for commerce agreed upon for the places actually occupied, they shall not be applicable to the places subsequently occupied by Spain until after a period of six months, dating from the said publication in the official journal of Madrid. It is agreed, however, that no vessel or subject of Great Britain, of Germany, or of other Powers shall be obliged to touch at one of the places occupied, either in going or returning from a place not occupied by Spain, and that no prejudice will be caused to them on this account, nor in respect of any kind of merchandise destined for a place in the archipelago which is not occupied."

ARTICLE V

The Government of Her Britannic Majesty engages to see that there is entire freedom of commerce and navigation, without distinction of flag, in the territory of North Borneo administered by the company styled "British North Borneo Company."

ARTICLE VI

If the Governments of Great Britain and of Germany have not refused their adhesion to the present Protocol within a period of fifteen days from this date or if they notify their adhesion before the expiration of this period through their undersigned representatives, the present declarations shall immediately come into force.

Done at Madrid, March 7th, 1885.

(L.S.) R. B. D. MORIER.
(L.S.) J. ELDUAYEN.
(L.S.) P. C. SOLOMS.

Annex MM 16

AGREEMENT BETWEEN HER MAJESTY'S GOVERNMENT AND THE BRITISH NORTH BORNEO COMPANY, MAY 12, 1888

BORNEO. No. 1 (1888)

PAPERS

RELATING TO

NORTH BORNEO.

Protectorate Agreements

Presented to both Houses of Parliament by Command of Her Majesty.
December 1888.

LONDON:
PRINTED FOR HER MAJESTY'S STATIONERY OFFICE,
BY HARRISON AND SONS, ST. MARTIN'S LANE,
PRINTERS IN ORDINARY TO HER MAJESTY.

And to be purchased, either directly or through any Bookseller, from
EYRE AND SPOTTISWOODE, EAST HARDING STREET, FLEET STREET, E.C., AND
32, ABINGDON STREET, WESTMINSTER, S.W.; OR
ADAM AND CHARLES BLACK, 6, NORTH BRIDGE, EDINBURGH; OR
HODGES, FIGGIS, & Co., 104, GRAFTON STREET, DUBLIN.

Despatch from the Marquis of Salisbury to Her Majesty's Minister at the Hague, inclosing copies of Agreements between Her Majesty's Government and the British North Borneo Company, the Rajah of Sarawak, and the Sultan of Brunei for the establishment of a British Protectorate.

The Marquis of Salisbury to Sir H. Rumbold.

Sir, *Foreign Office, December 24, 1888.*

I TRANSMIT herewith copies of separate Agreements which have been concluded by Her Majesty's Government with the British North Borneo Company, the Rajah of Sarawak, and the Sultan of Brunei, placing these States respectively under British protection.

These papers have been laid before Parliament, and will shortly be distributed.

I am, &c.
(Signed) SALISBURY.

Inclosure 1.

North Borneo.

Agreement between Her Majesty's Government and the British North Borneo Company. Title.

WHEREAS by virtue of certain grants and commissions from the Sultans, Chiefs, and Rulers of the territories in North Borneo hereinafter mentioned and by other lawful means, all rights of sovereignty over the said territories are vested in the British North Borneo Company: Preamble.

And whereas by Her Majesty's Royal Charter of Incorporation, bearing date the 1st day of November, 1881, the Company was authorized and empowered to assume the government of the said territories subject to the conditions in the said Charter contained:

And whereas the said territories are now governed and administered by the Company as an independent State, hereinafter referred to as "the State of North Borneo:"

And whereas the Company have represented to Her Majesty's Government the desire of that State to be placed under the protection of Her Majesty the Queen, under the conditions hereinafter mentioned; it is hereby agreed and declared as follows:—

ARTICLE I.

The State of North Borneo comprises the territories specified in the said Royal Charter, and such other territories as the Company have acquired, or Descriptio f territorie may hereafter acquire, under the provisions of Article XV of the said Charter.

It is divided into nine provinces, namely:—

Province Alcock;
Province Cunliffe;
Province Dent;
Province Dewhurst;
Province Elphinstone;
Province Keppel;
Province Martin;
Province Mayne;
Province Myburgh.

ARTICLE II.

North Borneo to be a "protected independent State."

The State of North Borneo shall continue to be governed and administered as an independent State by the Company in conformity with the provisions of the said Charter, under the protection of Great Britain; but such protection shall confer no right on Her Majesty's Government to interfere with the internal administration of that State further than is provided herein or by the Charter of the Company.

ARTICLE III.

Relations with foreign States.

The relations between the State of North Borneo and all foreign States, including the States of Brunei and of Sarawak, shall be conducted by Her Majesty's Government, or in accordance with its directions; and if any difference should arise between the Government of North Borneo and that of any other State, the Company, as representing the State of North Borneo, agrees to abide by the decision of Her Majesty's Government, and to take all necessary measures to give effect thereto.

ARTICLE IV.

British Consular officers.

Her Majesty's Government shall have the right to establish British Consular officers in any part of the said territories, who shall receive exequaturs in the name of the Government of North Borneo. They shall enjoy whatever privileges are usually granted to Consular officers, and they shall be entitled to hoist the British flag over their residences and public offices.

ARTICLE V.

National and most-favoured-nation treatment.

British subjects, commerce, and shipping shall enjoy the same rights, privileges, and advantages as the subjects, commerce, and shipping of the most favoured nation, as well as any other rights, privileges, and advantages which may be enjoyed by the subjects, commerce, and shipping of the State of North Borneo.

ARTICLE VI.

Alienation of territory.

No cession or other alienation of any part of the territory of the State of North Borneo shall be made by its Government to any foreign State, or the subjects or citizens thereof, without the consent of Her Majesty's Government; but this restriction shall not apply to ordinary grants or leases of lands or houses to private individuals for purposes of residence, agriculture, commerce, or other business.

In witness whereof the Undersigned have signed the present Agreement in duplicate, and have affixed thereto their seals.

Done at London, the 12th day of May, 1888.

(L.S.) (Signed) SALISBURY.

(On behalf of the British North Borneo Company).

(L.S.) (Signed) RUTHERFORD ALCOCK,
Chairman.

Annex MM 17

CONVENTION BETWEEN GREAT BRITAIN AND THE NETHERLANDS DEFINING THE BOUNDARIES IN BORNEO, JUNE 20, 1891

Convention between Great Britain and the Netherlands.

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and Her Majesty the Queen-Dowager, Regent of the Netherlands, in the name of Her Majesty Wilhelmina, Queen of the Netherlands, being desirous of defining the boundaries between the Netherland possessions in the Island of Borneo and the States in that island which are under British protection, have resolved to conclude a Convention to that effect, and have appointed as their Plenipotentiaries for that purpose, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Right Honourable Robert Arthur Talbot Gascoyne Cecil, Marquis of Salisbury, Earl of Salisbury, Viscount Cranborne, Baron Cecil, Peer of the United Kingdom, Knight of the Most Noble Order of the Garter, Member of Her Majesty's Most Honourable Privy Council, Her Majesty's Principal Secretary of State for Foreign Affairs, &c.; and Her Majesty the Queen-Dowager, Regent of the Netherlands, Count Charles Malcolm Ernest Georges de Bylandt, Knight Grand Cross of the Order of the Netherland Lion, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of St. James'; who, having produced their Full Powers, found in good and due form, have agreed upon the following Articles:—

ARTICLE I.

The boundary between the Netherland possessions in Borneo and those of the British-protected States in the same island, shall start from 4° 10′ north latitude on the east coast of Borneo.

ARTICLE II.

The boundary-line shall be continued westward from 4° 10′ north latitude, and follow in a west-north-west direction,

HARE Majesteit de Koningin van het Vereenigd Koninkrÿk van Groot Brittannië en Ierland, Keizerin van Indië, en Hare Majesteit de Koningin Weduwe, Regentes der Nederlanden, in naam van Hare Majesteit Wilhelmina, Koningin der Nederlanden, wenschende de grenzen vast te stellen tusschen de Nederlandsche bezittingen op het Eiland Borneo en de Staten op dat eiland, die onder Britsch Protectoraat staan, hebben goedgevonden tot dat doel een verdrag te sluiten, en hebben te dien einde als Hare Gevolmachtigden benoemd, te weten:

Hare Majesteit de Koningin van het Vereenigd Koninkrÿk van Groot Brittannië en Ierland, Keizerin van Indië, den Heer Robert Arthur Talbot Gascoyne Cecil, Markies van Salisbury, Graaf van Salisbury, Burggraaf Cranborne, Baron Cecil, Pair van het Vereenigd Koninkrÿk, Ridder van de Orde van den Kouseband, Lid van Harer Majesteit's Geheimen Raad, Harer Majesteit's voornaamsten Secretaris van Staat voor Buitenlandsche Zaken, enz.; en Hare Majesteit de Koningin Weduwe, Regentes der Nederlanden, Graaf Charles Malcolm Ernest Georges van Bylandt, Ridder-Grootkruis van de Orde van den Nederlandschen Leeuw, Harer Majesteit's Buitengewoon Gezant en Gevolmachtigd Minister bÿ het Hof van St. James; welke na elkander hunne wederzydsche volmachten, die in goeden en behoorlyken vorm zÿn bevonden, te hebben medegedeeld, het volgende hebben bepaald:—

ARTIKEL I.

De grens tusschen de Nederlandsche bezittingen op Borneo en die der tot het Britsch Protectoraat behoorende staten op dat eiland zal aanvangen op 4° 10′ noorder breedte op de oostkust van Borneo.

ARTIKEL II.

De grenslÿn zal van 4° 10′ noorder breedte westwaarts vervolgd worden, en in eene westnoord westelyke richting between the Rivers Simengaris and Socuang, up to the point where the meridian 117° east longitude crosses the parallel 4° 20′ north latitude, with the view of including the Simengaris River within Dutch territory. The boundary-line shall then follow westward the parallel 4° 20′ north latitude until it reaches the summit of the range of mountains which forms on that parallel the watershed between the rivers running to the north-west coast and those running to the east coast of Borneo, it being understood that, in the event of the Simengaris River or any other river flowing into the sea below 4° 10′, being found on survey to cross the proposed boundary-line within a radius of 5 geographical miles, the line shall be diverted so as to include such small portions or bends of rivers within Dutch territory; a similar concession being made by the Netherland Government with regard to any river debouching above 4° 10′ on the territory of the British North Borneo Company, but turning southwards.

ARTICLE III.

From the summit of the range of mountains mentioned in Article II, to Tandjong-Datoe on the west coast of Borneo, the boundary-line shall follow the watershed of the rivers running to the north-west and west coasts, north of Tandjong-Datoe, and of those running to the west coast south of Tandjong-Datoe, the south coast, and the east coast south of 4° 10′ north latitude.

ARTICLE IV.

From 4° 10′ north latitude on the east coast the boundary-line shall be continued eastward along that parallel, across the Island of Sebittik: that portion of the island situated to the north of that parallel shall belong unreservedly to the British North Borneo Company, and the portion south of that parallel to the Netherlands.

ARTICLE V.

The exact position of the boundary-line, as described in the four preceding Articles, shall be determined hereafter by mutual agreement, at such times as the Netherland and the British Governments may think fit.

loopen tusschen de Simengaris en Soedang rivieren tot het punt waar de meridiaan van 117° oosterlengte van Greenwich de parallel 4° 20′ noorder breedte snÿdt, met het doel om de Simengaris rivier tot het Nederlandsch grondgebied te doen behooren. De grenslÿn zal dan westwaarts de parallel 4° 20′ noorder breedte volgen tot dat zÿ het hoogste punt bereikt van de bergketen, welke op die parallel de waterscheiding vormt tusschen de rivieren die naar de noordwestkust, en die welke naar de oostkust van Borneo afstroomen, met dien verstande, dat ingeval de Simengaris rivier of eenige andere rivier, welke ten zuiden van 4° 10′ noorderbreedte in zee valt, na opneming, de gestelde grenslÿn blÿkt te overschrÿden binnen een afstand van 5 geographische mÿlen, de lÿn zoodanig zal gewÿzigd worden dat zulke kleine gedeelten of bochten van rivieren in het Nederlandsch grondgebied worden ingesloten; eene gelÿke concessie wordt door de Nederlandsche Regeering gedaan ten aanzien van eenige rivier welke uitmondt benoorden 4° 10′ op het gebied der Britsche Noord Borneo Maatschappÿ, doch zuidwaarts de grenslÿn overschrÿdt.

ARTIKEL III.

Van het hoogste punt van de bergketen bedoeld in Artikel II tot Tandjong-Datoe aan de westkust van Borneo zal de grenslÿn de waterscheiding volgen van de rivieren die afstroomen naar de noordwest en westkusten benoorden Tandjong-Datoe, en van die welke afstroomen naar de westkust bezuiden Tandjong-Datoe, de zuidkust en de oostkust bezuiden 4° 10′ noorder breedte.

ARTIKEL IV.

Van 4° 10′ noorder breedte ter oostkust zal de grenslÿn oostwaarts vervolgd worden langs die parallel over het eiland Sebittik; het gedeelte van dat eiland dat gelegen is ten noorden van die parallel zal onvoorwaardelÿk toebehooren aan de Britsche Noord Borneo Maatschappÿ, en het gedeelte ten zuiden van die parallel aan Nederland.

ARTIKEL V.

De juiste ligging van de grenslÿn in de vier voorgaande artikelen omschreven, zal later in onderling overleg worden aangewezen op de tÿdstippen die de Nederlandsche en Britsche Regeeringen daarvoor geschikt zullen oordeelen.

ARTICLE VI.

The navigation of all rivers flowing into the sea between Batoo-Tinagat and the River Siboekoe shall be free, except for the transport of war material; and no transport duties shall be levied on other goods passing up those rivers.

ARTICLE VII.

The population of Boelongan shall be allowed to collect jungle produce in the territory between the Simengaris and the Tawao Rivers for fifteen years from the date of the signature of the present Convention, free from any tax or duty.

ARTICLE VIII.

The present Convention shall be ratified, and it shall come into force three months after the exchange of the ratifications, which shall take place at London one month, or sooner if possible, after the said Convention shall have received the approval of the Netherland States-General.

In witness whereof the Undersigned have signed the present Convention, and have affixed thereto their seals.

Done at London, in duplicate, this 20th day of June, 1891.

ARTIKEL VI.

De scheepvaart op alle rivieren die tusschen Batoe-Tinagat en de Siboekoe-rivier in zee uitmonden zal vrÿ zÿn, uitgezonderd voor het vervoer van oorlogsmateriëel, en op het vervoer van andere goederen, welke deze rivieren opgevoerd worden, zullen geen rechten geheven worden.

ARTIKEL VII.

Gedurende vÿftien jaren, gerekend van den dag der onderteekening van deze Conventie, zal het aan de bevolking van Boelongan vrÿstaan boschproducten te verzamelen in het gebied tusschen de Simengaris en Tawao rivieren, vrÿ van belasting of welke andere heffing ook.

ARTIKEL VIII.

Deze Conventie zal bekrachtigd worden en zÿ zal in werking komen drie maanden na de uitwisseling der ratificatien, die zal plaats hebben te Londen eene maand, of zoo mogelÿk vroeger, nadat de Conventie de goedkeuring der Nederlandsche Staten Generaal zal hebben verkregen.

Ten blyke waarvan de wederzÿdsche gevolmachtigden deselve hebben onderteekend en met hunne wapenen bezegeld.

Gedaan in dubbel te Londen, den 20ste Juni, 1891.

(L.S.) (Signed) SALISBURY.
(L.S.) (Signed) CH. v. BYLANDT.

Annex MM 18

AGREEMENT BETWEEN GREAT BRITAIN, GERMANY AND SPAIN, MARCH 30, 1897

PROTOCOL between Great Britain, Germany, and Spain, explanatory of Article IV of the Protocol of March 7, 1885, respecting the Importation of Fire-arms, Munitions of War, and Alcohol into the Sulu Archipelago.—Signed at Madrid, March 30, 1897.

Les Soussignés, son Excellence Sir Henry Drummond Wolff, Ambassadeur Extraordinaire et Plénipotentiaire de Sa Majesté Britannique;

Son Excellence Don Carlos O'Donell y Abreu, Duc de Tetuan, Ministre d'État de Sa Majesté le Roi d'Espagne; et

Le Sieur Eméric, Comte d'Arco-Valley, Chargé d'Affaires, *ad interim*, d'Allemagne;

Dûment autorisés pour se mettre d'accord sur la valeur et l'interprétation des dispositions de l'Article IV du Protocole de Sulu (Joló) du 7 Mars, 1885,[*] sont convenus de ce qui suit, à savoir:—

La formule générale employée dans la rédaction du dit Article n'est pas applicable au cas où les autorités Espagnoles défendraient en général et sans aucune exception l'importation dans l'Archipel susmentionné des armes à feu, des munitions de guerre et des alcools.

Dans le cas où le Gouvernement Espagnol décréterait la prohibition d'importer les armes à feu, les munitions de guerre, et les alcools dans l'Archipel de Sulu (Joló), cette défense sera publiée dans les journaux officiels de Madrid et de Manille. Elle sera notifiée aux Gouvernements de la Grande-Bretagne et de l'Allemagne au moyen de notes officielles.

Il est entendu que la dite prohibition ne s'appliquera pas aux marchandises qui se trouveraient en route au moment de la publication du Décret respectif, et que le Protocole du 7 Mars, 1885, sera maintenu dans toutes ses parties simultanément avec le présent éclaircissement.

Fait à Madrid, en triple original, le 30 Mars, 1897.

(L.S.) H. DRUMMOND WOLFF.
(L.S.) EL DUQUE DE TETUAN.
(L.S.) GRAF ARCO.

Annex MM 19

TREATY OF PEACE (TREATY OF PARIS) BETWEEN SPAIN AND THE UNITED STATES, DECEMBER 10, 1898

TREATY OF PEACE (TREATY OF PARIS)

Signed at Paris December 10, 1898
Senate advice and consent to ratification February 6, 1899
Ratified by the President of the United States February 6, 1899
Ratified by Spain March 19, 1899
Ratifications exchanged at Washington April 11, 1899
Entered into force April 11, 1899
Proclaimed by the President of the United States April 11, 1899
Article IX amended by protocol of March 29, 1900 [1]
Article III supplemented by convention of November 7, 1900 [2]

30 Stat. 1754; Treaty Series 343

The United States of America and Her Majesty the Queen Regent of Spain, in the name of her August Son Don Alfonso XIII, desiring to end the state of war now existing between the two countries, have for that purpose appointed as Plenipotentiaries:

The President of the United States,

William R. Day, Cushman K. Davis, William P. Frye, George Gray, and Whitelaw Reid, citizens of the United States;

and Her Majesty the Queen Regent of Spain,

Don Eugenio Montero Ríos, President of the Senate,

Don Buenaventura de Abarzuza, Senator of the Kingdom and ex-Minister of the Crown,

Don José de Garnica, Deputy to the Cortes and Associate Justice of the Supreme Court,

Don Wenceslao Ramirez de Villa-Urrutia, Envoy Extraordinary and Minister Plenipotentiary at Brussels, and

Don Rafael Cerero, General of Division;

Who, having assembled in Paris, and having exchanged their full powers, which were found to be in due and proper form, have, after discussion of the matters before them, agreed upon the following articles:

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[1] TS 344; *post*, p. 622.
[2] TS 345, *post*, p. 623.

ARTICLE I

Spain relinquishes all claim of sovereignty over and title to Cuba.

And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property.

ARTICLE II

Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

ARTICLE III[a]

Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line:

A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (118th) to the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty five minutes (4° 45′) north latitude, thence along the parallel of four degrees and forty five minutes (4° 45′) north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119° 35′) east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119° 35′) east of Greenwich to the parallel of latitude seven degrees and forty minutes (7° 40′) north, thence along the parallel of latitude seven degrees and forty minutes (7° 40′) north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

The United States will pay to Spain the sum of twenty million dollars ($20,000,000) within three months after the exchange of the ratifications of the present treaty.

ARTICLE IV

The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

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[a] For a supplement to art. III, see convention of Nov. 7, 1900 (TS 345), *post*, p. 623

ARTICLE V

The United States will, upon the signature of the present treaty, send back to Spain, at its own cost, the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces. The arms of the soldiers in question shall be restored to them.

Spain will, upon the exchange of the ratifications of the present treaty, proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies, under the Protocol of August 12, 1898,[4] which is to continue in force until its provisions are completely executed.

The time within which the evacuation of the Philippine Islands and Guam shall be completed shall be fixed by the two Governments. Stands of colors, uncaptured war vessels, small arms, guns of all calibres, with their carriages and accessories, powder, ammunition, livestock, and materials and supplies of all kinds, belonging to the land and naval forces of Spain in the Philippines and Guam, remain the property of Spain. Pieces of heavy ordnance, exclusive of field artillery, in the fortifications and coast defences, shall remain in their emplacements for the term of six months, to be reckoned from the exchange of ratifications of the treaty; and the United States may, in the mean time, purchase such material from Spain, if a satisfactory agreement between the two Governments on the subject shall be reached.

ARTICLE VI

Spain will, upon the signature of the present treaty, release all prisoners of war, and all persons detained or imprisoned for political offences, in connection with the insurrections in Cuba and the Philippines and the war with the United States.

Reciprocally, the United States will release all persons made prisoners of war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

The Government of the United States will at its own cost return to Spain and the Government of Spain will at its own cost return to the United States, Cuba, Porto Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

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[4] TS 343½, *ante*, p. 613.

ARTICLE VII

The United States and Spain mutually relinquish all claims for indemnity, national and individual of every kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

ARTICLE VIII

In conformity with the provisions of Articles I, II, and III of this treaty, Spain relinquishes in Cuba, and cedes in Porto Rico and other islands in the West Indies, in the island of Guam, and in the Philippine Archipelago, all the buildings, wharves, barracks, forts, structures, public highways and other immovable property which, in conformity with law, belong to the public domain, and as such belong to the Crown of Spain.

And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

The aforesaid relinquishment or cession, as the case may be, includes all documents exclusively referring to the sovereignty relinquished or ceded that may exist in the archives of the Peninsula. Where any document in such archives only in part relates to said sovereignty, a copy of such part will be furnished whenever it shall be requested. Like rules shall be reciprocally observed in favor of Spain in respect of documents in the archives of the islands above referred to.

In the aforesaid relinquishment or cession, as the case may be, are also included such rights as the Crown of Spain and its authorities possess in respect of the official archives and records, executive as well as judicial, in the islands above referred to, which relate to said islands or the rights and property of their inhabitants. Such archives and records shall be carefully preserved, and private persons shall without distinction have the right to require, in accordance with law, authenticated copies of the contracts, wills and other instruments forming part of notarial protocols or files, or which may be contained in the executive or judicial archives, be the latter in Spain or in the islands aforesaid.

ARTICLE IX

Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, including the right to sell or dispose of such property or of its proceeds; and they shall also have the right to carry on their industry, commerce and professions, being subject in respect thereof to such laws as are applicable to other foreigners. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty,[9] a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

ARTICLE X

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

ARTICLE XI

The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall be subject in matters civil as well as criminal to the jurisdiction of the courts of the country wherein they reside, pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts, and to pursue the same course as citizens of the country to which the courts belong.

ARTICLE XII

Judicial proceedings pending at the time of the exchange of ratifications of this treaty in the territories over which Spain relinquishes or cedes her sovereignty shall be determined according to the following rules:

1. Judgments rendered either in civil suits between private individuals, or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right of review under the Spanish law, shall be deemed to be final, and shall be executed in due form by competent authority in the territory within which such judgments should be carried out.

2. Civil suits between private individuals which may on the date mentioned be undetermined shall be prosecuted to judgment before the court

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[9] For an extension of time for declaration of intention to retain Spanish nationality, see protocol of Mar. 29, 1900 (TS 344), *post*, p. 622.

in which they may then be pending or in the court that may be substituted therefor.

3. Criminal actions pending on the date mentioned before the Supreme Court of Spain against citizens of the territory which by this treaty ceases to be Spanish shall continue under its jurisdiction until final judgment; but, such judgment having been rendered, the execution thereof shall be committed to the competent authority of the place in which the case arose.

ARTICLE XIII

The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Porto Rico, the Philippines and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of the ratifications of this treaty.

ARTICLE XIV

Spain shall have the power to establish consular officers in the ports and places of the territories, the sovereignty over which has been either relinquished or ceded by the present treaty.

ARTICLE XV

The Government of each country will, for the term of ten years, accord to the merchant vessels of the other country the same treatment in respect of all port charges, including entrance and clearance dues, light dues, and tonnage duties, as it accords to its own merchant vessels, not engaged in the coastwise trade.

This article may at any time be terminated on six months' notice given by either Government to the other.

ARTICLE XVI

It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will upon the termination of such occupancy, advise any Government established in the island to assume the same obligations.

ARTICLE XVII

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Paris, the tenth day of December, in the year of Our Lord one thousand eight hundred and ninety eight.

William R. Day [SEAL]
Cushman K. Davis [SEAL]
Wm. P. Frye [SEAL]
Geo. Gray [SEAL]
Whitelaw Reid [SEAL]
Eugenio Montero Ríos [SEAL]
B. de Abarzuza [SEAL]
J. de Garnica [SEAL]
W. R. de Villa Urrutia [SEAL]
Rafael Cerero [SEAL]

Annex MM 20

AGREEMENT BETWEEN THE UNITED STATES AND THE SULTAN OF SULU, AUGUST 20, 1899

20 August

Agreement between the *United States* and the Sultan of *Sulu* relative to Sovereignty, Trade etc., signed at Jolo

English text—Brit. For., XCII, 1324

AGREEMENT between Brigadier-General John C. Bates, representing the United States, of the one part, and His Highness the Sultan of Jolo, the Dato Rajah Muda, the Dato Attik, the Dato Calbi, and the Dato Joakanain, of the other part; it being understood that this Agreement will be in full force only when approved by the Governor-General of the Philippine Islands and confirmed by the President of the United States, and will be subject to future modifications by the mutual consent of the parties in interest.

ART. I. The sovereignty of the United States over the whole Archipelago of Jolo and its dependencies is declared and acknowledged.

This Agreement was confirmed and approved, as recorded in the following despatch from the United States' Secretary of War:—

"Sir, "*War Department, October 27, 1899.*

"The President instructs me to advise you that the Agreement signed the 20th August, 1899, between Brigadier-General John C. Bates, representing the United States, of the one part, the Sultan of Jolo, the Dato Rajah Muda, the Dato Attik, the Dato Calbi, and the Dato Joakanain, of the other part, is confirmed and approved, subject to the action of Congress provided for in that clause of the Treaty of Peace between the United States and Spain, which provides 'The civil rights and the political status of the native inhabitants of the

II. The United States' flag will be used in the Archipelago of Jolo and its dependencies, on land and sea.

III. The rights and dignities of His Highness the Sultan and his Datos shall be fully respected; the Moros shall not be interfered with on account of their religion; all their religious customs shall be respected, and no one shall be persecuted on account of his religion.

IV. While the United States may occupy and control such points in the Archipelago of Jolo as public interests seem to demand, encroachment will not be made upon the lands immediately about the residence of His Highness the Sultan unless military necessity requires such occupation in case of war with a foreign Power; and where the property of individuals is taken, due compensation will be made in each case.

Any person can purchase land in the Archipelago of Jolo, and hold the same, by obtaining the consent of the Sultan and coming to a satisfactory agreement with the owner of the land; and such purchase shall immediately be registered in the proper office of the United States' Government.

V. All trade in domestic products of the Archipelago of Jolo, when carried on by the Sultan and his people with any part of the Philippine Islands, and when conducted under the American flag, shall be free, unlimited, and undutiable.

VI. The Sultan of Jolo shall be allowed to communicate direct with the Governor-General of the Philippine Islands in making

territory hereby ceded to the United States shall be determined by Congress, and with the understanding and reservation, which should be distinctly communicated to the Sultan of Jolo, that this Agreement is not to be deemed in any way to authorize or give the consent of the United States to the existence of slavery in the Sulu Archipelago—a thing which is made impossible by the thirteenth amendment to the Constitution of the United States. At the same time when you communicate to the Sultan the above-mentioned understanding, the President desires that you should make inquiry as to the number of persons held in slavery in the archipelago, and what arrangement it may be practicable to make for their emancipation. It is assumed that the market price referred to in the Agreement of the 20th August, 1899, is not very high at present, and it may be that a comparatively moderate sum, which Congress might be willing to appropriate for that purpose, would suffice to secure freedom for the whole number.

"It is needless to suggest that the inquiry should be prosecuted in such a way as not to create the impression that we now have authority to make such an arrangement, and in such a manner as not to create extravagant expectations.

"Very truly, yours,

"*Major-General E. S. Otis,* "ELIHU ROOT, *Secretary of War.*"
"*Commanding United States' Forces in the Philippines,*
"*Manila, Philippine Islands.*"

complaint against the Commanding Officer of Jolo or against any Naval Commander.

VII. The introduction of fire-arms and war material is forbidden, except under specific authority of the Governor-General of the Philippine Islands.

VIII. Piracy must be suppressed, and the Sultan and his Datos agree to heartily co-operate with the United States' authorities to that end, and to make every possible effort to arrest and bring to justice all persons engaged in piracy.

IX. Where crimes and offences are committed by Moros against Moros, the Government of the Sultan will bring to trial and punishment the criminals and offenders, who will be delivered to the Government of the Sultan by the United States' authorities if in their possession. In all other cases persons charged with crimes or offences will be delivered to the United States' authorities for trial and punishment.

X. Any slave in the Archipelago of Jolo shall have the right to purchase freedom by paying to the master the usual market value.

XI. In cases of any trouble with subjects of the Sultan, the American authorities in the islands will be instructed to make careful investigation before resorting to harsh measures, as in most cases serious trouble can thus be avoided.

XII. At present, Americans or foreigners wishing to go into the country should state their wishes to the Moro authorities, and ask for an escort; but it is hoped that this will become unnecessary as we know each other better.

XIII. The United States will give full protection to the Sultan and his subjects in case any foreign nation should attempt to impose upon them.

XIV. The United States will not sell the Island of Jolo, or any other island of the Jolo Archipelago, to any foreign nation without the consent of the Sultan of Jolo.

XV. The United States' Government will pay the following monthly salaries:—

	Mexican dollars.
To the Sultan	250
To Dato Rajah Muda	75
To Dato Atik	60
To Dato Calbi	75
To Dato Jeakanain	75
To Dato Puyo	60
To Dato Amir Hussin	60
To Hadji Butu	50
To Habib Mura	40
To Serif Saguir	15

Signed in triplicate, in English and Sulu, at Jolo, this 20th day of August, A.D. 1899 (13 Arabuil, Abril 1517).

JOHN C. BATES, *Brigadier-General, United States' Volunteers.*

SULTAN OF JOLO. DATO RAJAH MUDA. DATO ATTIK. DATO CALBI. DATO JOAKANAIN.	Signatures in native characters.

Annex MM 21

TREATY BETWEEN THE UNITED STATES AND SPAIN, NOVEMBER 7, 1900

November 7, 1900.

Cession of outlying islands of the Philippines.

Treaty between the United States and Spain for the cession to the United States of any and all islands of the Philippine archipelago lying outside of the lines described in Article III of the treaty of peace of December 10, 1898. Signed at Washington November 7, 1900; ratification advised by the Senate January 22, 1901; ratified by the President January 30, 1901; ratified by Spain February 25, 1901; ratifications exchanged at Washington March 23, 1901; proclaimed March 23, 1901.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Vol. 30, p. 1754.

Whereas a Convention between the United States of America and Spain, providing for the cession to the United States of any and all islands of the Philippine Archipelago lying outside of the lines described in Article III of the Treaty of Peace concluded by them at Paris on December 10, 1898, was concluded and signed by their respective plenipotentiaries at the City of Washington on the seventh day of November, 1900, which Convention, being in the English and Spanish languages, is word for word as follows:

The United States of America and Her Majesty the Queen Regent of Spain, in the name of Her August Son, Don Alfonso XIII, desiring to remove any ground of misunderstanding growing out of the interpretation of Article III of the Treaty of Peace concluded between them at Paris the tenth day of December, one thousand eight hundred and ninety eight, whereby Spain cedes to the United States the archipelago known as the Philippine Islands and comprehending the islands lying within certain described lines, and having resolved to conclude a Treaty to accomplish that end, have for that purpose appointed as their respective plenipotentiaries:	Los Estados Unidos de América, y Su Majestad la Reina Regente de España, en nombre de Su Augusto Hijo Don Alfonso XIII, deseando evitar cualquier desavenencia á que pudiera dar lugar la interpretación del artículo III del Tratado de Paz, firmado por ambas Partes contratantes en París, el dia diez de Diciembre del año mil ochocientos noventa y ocho, en virtud del cual España cede á los Estados Unidos el Archipiélago conocido con el nombre de Islas Filipinas, y que constituyen las islas situadas dentro de los limites que en el mismo se expresan; han resuelto celebrar un Tratado con el fin de alcanzar el indicado propósito, nombrando Plenipotenciarios:
Plenipotentiaries. The President of the United States, John Hay, Secretary of State of the United States;	El Presidente de los Estados Unidos á John Hay, Secretario de Estado de los Estados Unidos;
and Her Majesty the Queen Regent of Spain, the Duke de Arcos, Envoy Extraordinary and Minister Plenipotentiary of Spain to the United States;	y Su Majestad la Reina Regente de España, al Duque de Arcos, Enviado Extraordinario y Ministro Plenipotenciario de España en los Estados Unidos;
who, having met in the city of Washington and having exchanged their full powers, which were found to be in due and proper form, have agreed upon the following sole article:	los cuales, reunidos en la ciudad de Washington, despues de haberse comunicado sus plenos poderes, que fueron hallados en buena y debida forma, han convenido en el artículo único siguiente:

SOLE ARTICLE	ARTÍCULO ÚNICO	
Spain relinquishes to the United States all title and claim of title, which she may have had at the time of the conclusion of the Treaty of Peace of Paris, to any and all islands belonging to the Philippine Archipelago, lying outside the lines described in Article III of that Treaty and particularly to the islands of Cagayan Sulú and Sibutú and their dependencies, and agrees that all such islands shall be comprehended in the cession of the Archipelago as fully as if they had been expressly included within those lines.	España renuncia en favor de los Estados Unidos á todo título ó derecho que, al firmarse el Tratado de Paz de Paris, hubiese podido tener sobre cada una ó todas las Islas pertenecientes al Archipiélago Filipino, situadas fuera de los límites especificados en el artículo III de dicho Tratado de Paris, y especialmente á las Islas de Cagayan de Joló y Sibutú y sus dependencias; y conviene en que todas ellas queden comprendidas en la cesion del Archipiélago, en idénticas condiciones á aquellas que fueron expresamente incluidas dentro de la mencionada delimitación.	Territory relinquished.
The United States, in consideration of this relinquishment, will pay to Spain the sum of one hundred thousand dollars ($100,000) within six months after the exchange of the ratifications of the present Treaty.	Los Estados Unidos, en atención á esta renuncia, pagarán á España la suma de cien mil dollars ($100.000) dentro del plazo de seis meses á contar desde el dia del canje de ratificaciones del presente Tratado.	Consideration.
The present Treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain, after approval by the Cortes of the Kingdom, and the ratifications shall be exchanged at Washington as soon as possible.	El presente Tratado será ratificado por el Presidente de los Estados Unidos, con el consejo y consentemiento del Senado, y por Su Majestad la Reina Regente de España, previa aprobación de las Cortes del Reino, y se canjearán las ratificaciones en Washington en el mas breve plazo posible.	Ratification.
In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals.	En fé de lo cual, los respectivos Plenipotenciarios firman y sellan este Tratado.	
Done in duplicate at the city of Washington, the 7th day of November, in the year of Our Lord one thousand nine hundred.	Hecho por duplicado en la Ciudad de Washington el dia 7 de Noviembre del año mil nuevecientos.	
JOHN HAY [SEAL] ARCOS [SEAL]	JOHN HAY [SEAL] ARCOS [SEAL]	Signatures.

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the twenty-third day of March, one thousand nine hundred and one;

Proclamation.

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 23rd day of March, in the year of Our Lord one thousand nine hundred and one, and of the Independence of the United States the one hundred and twenty-fifth.

[SEAL]

WILLIAM MCKINLEY

By the President:
JOHN HAY
Secretary of State.

Annex MM 22

CONFIRMATION BY SULTAN OF SULU OF CESSION OF CERTAIN ISLANDS, APRIL 22, 1903

NORTH BORNEO

CONFIRMATION BY SULTAN OF SULU OF CESSION OF CERTAIN ISLANDS

22 APRIL 1903

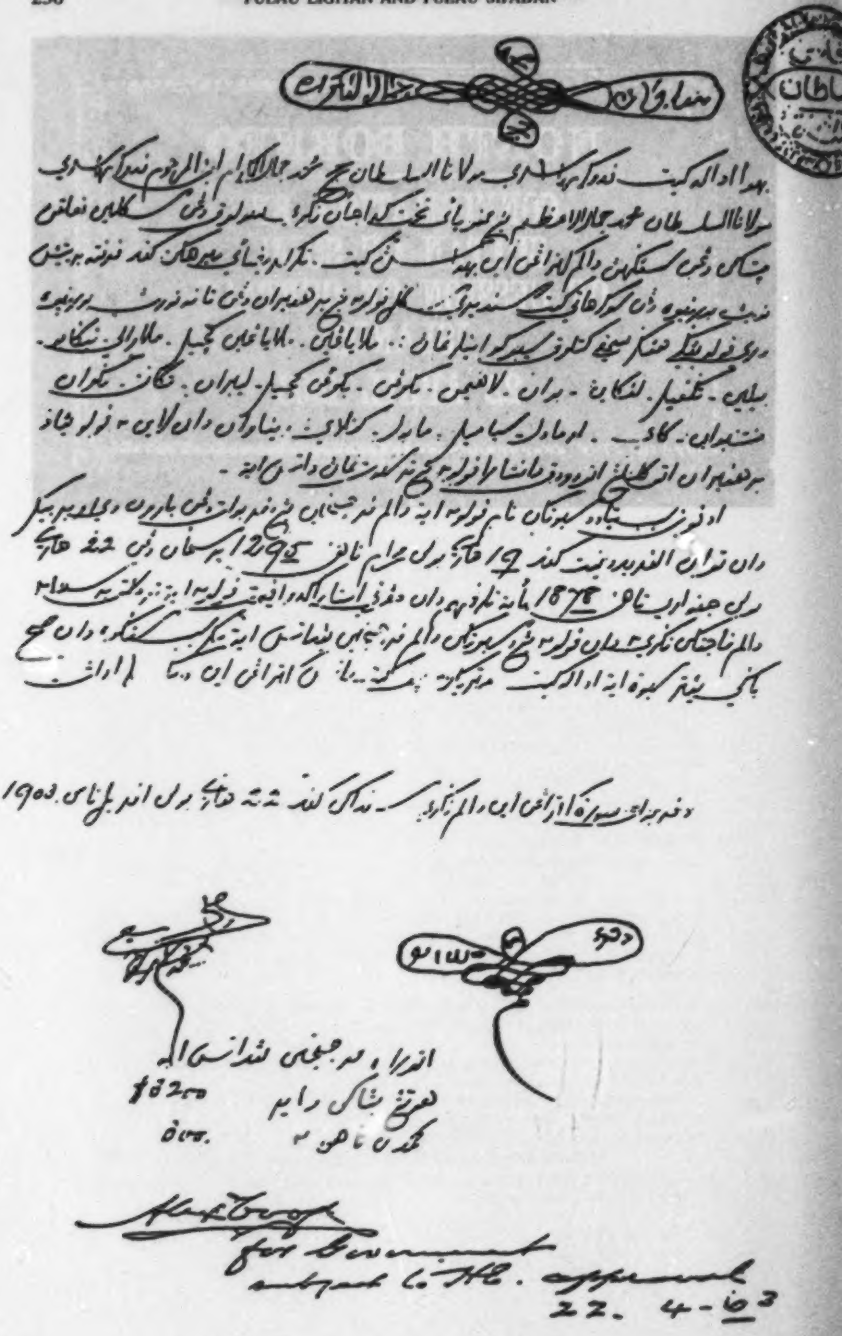
[illegible] dan lain-lain pulau yang ada [illegible] kelilling akan [illegible] di-antara pulau-pulau yang tersebut nama-nya di-atas ini.

[illegible] dalam perjanjian yang di-perbuat dengan Baron de Overbeck dan Tuan Alfred Dent, kapada 22 hari bulan [illegible] tahun 1878 bersamaan dengan 19 hari bulan [illegible] tahun 1295, [illegible] di-atas ini. [illegible]

[illegible]

Bandahan kapada 22 hari bulan April tahun 1903.

22-4-03



Malay transcript.

CONFIRMATION OF CESSION OF CERTAIN ISLANDS. DATED 22nd APRIL, 1903.

Seal of
Sultan Haji Muhammad
Jamalulkiram of Sulu.

S/d. Sultan Haji
Muhammad Jamalulkiram

Bahwa ada-lah kita Paduka Maha Sĕri Maulana as-Sultan Haji Muhammad Jamalulkiram ibn al-marhum Paduka Maha Sĕri Maulana as-Sultan Muhammad Jamaluladzam yang mĕmpunyai takhta kĕrajaan nĕgĕri Suluk dĕngan sakalian taalok-nya mĕnyatakan dĕngan sa-sunggoh-nya dalam kĕtĕrangan ini bahwasanya kita tĕlah kĕrĕ-dzai mĕnyĕrahkan kapada pĕrentah British North Borneo dĕngan suka hati kita sĕndiri sĕgala pulau-pulau yang bĕrhampiran dĕngan tanah North Borneo dari Pulau Banggi hingga sampai ka-tĕlok Sibuku, ini-lah nama-nya Malayangin, Malayangin Kĕchil, Malawali, Tigabu, Bilian, Tagapil, Langkayan[xx], Boan, Lahiman, Bakungan, Bakungan Kĕchil, Libaran, Taganak, Baguan, Mantabuan, Gaya, Omadal, Siamil[ø], Mabul, Kapalai, Dinawan, dan lain-lain pulau yang ada bĕrhampiran atau kĕliling atau duduk di-antara pulau-pulau yang tĕrsĕbut nama-nya di-atas itu.

Ada pun sĕbab tiada di-sĕbutkan nama pulau-pulau itu dalam pĕrjanjian yang di-pĕrbuat dĕngan Baron de Overbeck dan Tuan Alfred Dent, kapada 19 hari bulan Muharram tahun 1295 bĕrsamaan dĕngan 22 hari bulan January tahun 1878, ya-itu tĕlah faham dan mĕngĕrti antara/fihak kĕdua pulau-pulau itu tĕrmasok bĕrsama-sama dalam pajakan nĕgĕri-nĕgĕri dan pulau-pulau yang di-sĕbutkan dalam pĕrjanjian yang di-atas itu. Maka sĕbab sunggoh dan sah bagai yang tĕrsĕbut itu ada-lah kita mĕtĕraikan chap kita di-atas kĕtĕrangan ini dĕmikian-lah ada-nya.

Di-pĕrbuat surat kĕtĕrangan ini dalam nĕgĕri Sandakan kapada 22 hari bulan April tahun 1903.

[xx] Should probably be read "Langgayan" (the map has "Langaan").

[ø] Thus in the original. (The map has "Si Amil").

(See the translation. The right hand signature upon the Document may be read as the first signature at the Foot of the translation; but the left-hand one is by no means clear)

xx
Malay signatures (undeciphered).

Aturan pĕrjanjian yang di-atas itu

hutang yangjukan di-bayar $3,200.

Kĕmudian tahun-tahun $300.

S/d. Alex.Cook.
for Government
Subject to H E. approval.
22.4.03.

CONFIRMATION OF CESSION OF CERTAIN ISLANDS. DATED 22nd APRIL,1903.

(Translation).

Seal of	S/d. Sultan Haji
Sultan Haji Muhammed	Muhammed Jamalulkiram.
Jamalulkiram of Sulu.	

Whereas We, His Highness the Sultan Haji Muhammed Jamalulkiram son of His Highness the late Sultan Jamaluladzam, who possess the throne of sovereignty of the State of Sulu and all its dependencies solemnly declare in this certificate that We have been pleased to cede of our own free will to the Government of British North Borneo all the islands in the neighbourhood of the mainland of North Borneo from the island of Banggi to Sibuku Bay. These are their names:- Mulayangin, Mulayangin Kĕchil, Malawali, Tigabu, Bilian, Tagapil, Langkayan[xx], Boan, Lahiman, Bakungan, Bakungan Kĕchil, Libaran, Taganak, Baguan, Mantanbuan, Gaya, Omadal, Siamil[ø], Kabul, Kapalai, Dinawan, and other islands near, or round, or lying between the said islands named above.

[xx] Should probably be read "Langgayan" (the map has "Langaan").

[ø] Thus in the original. (The map has "Si Amil").

The reason why the names of these islands were not mentioned in the agreement made with Baron de Overbeck and Mr. (now Sir) Alfred Dent on the 19th day of Muharram A.H.1295 corresponding to the 22nd January, 1878, is because it was known and mutually understood that these islands were included in the grant of the countries and islands mentioned in the agreement above referred to.

In confirmation of the aforesaid We have set our seal on this Certificate.

Witness:-

S/d. Datu Mulal Atik Haji Mohsin.	This certificate was made at Sandakan on the 22nd day of April,1903.

Conditions attached to the above agreement

Arrears to be paid	$3,200
In future yearly	$ 300

S'd. Alex. Cook

For Government

Subject to H E. approval.

22.4.03.

Annex M 23

EXCHANGE OF NOTES CONCERNING THE ADMINISTRATION AND LEASE OF CERTAIN SMALL ISLANDS ON THE NORTH BORNEO COAST BY THE BRITISH GOVERNMENT,

JULY 3, 1907

The British Ambassador to the Secretary of State.

No. 151.]

BRITISH EMBASSY,
Intervale, N. H., July 3, 1907.

SIR: I have the honor to inform you that His Majesty's Government, acting at the request and on behalf of the British North Borneo Company, are prepared to acquiesce in the last proposal stated in your letter to Sir H. M. Durand of the 19th of December last, respecting the administration of certain islands on the east coast of Borneo. I am therefore instructed by His Majesty's principal secretary of state for foreign affairs to place the proposed arrangement formally on record without further delay.

His Majesty's Government understands the terms of the arrangement to be as follows:

Firstly. That the said company be left undisturbed in the administration of the islands in question without any agreement specifying details, the United States Government simply waiving in favor of the said company the right to such administration in the meantime; in other words, that the existing status be continued indefinitely at the pleasure of the two Governments concerned.

Secondly. That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.

Thirdly. That the temporary waiver of the right of administration on the part of the United States Government shall cover all the islands to the westward and southwestward of the line traced on the map which accompanied Sir H. M. Durand's memorandum of the 23d of June, 1906, and which is annexed to and to be deemed to form part of this note.

Fourthly. That the British North Borneo Company, through His Majesty's Government, shall agree to the exemption of the United States Government from any claim or allegation that the latter Government has incurred any responsibility in respect of acts done in or from any island within the said line.

Fifthly. That the understanding shall continue until the said two Governments may by treaty delimit the boundary between their respective domains in that quarter or until the expiry of one year from the date when notice of termination be given by either to the other.

Sixthly. That in case of denunciation, the United States Government shall not be responsible for the value of any buildings or other permanent improvements which may have been erected or made by the company upon the islands, but permission is hereby given to the company to remove, at its own expense, any buildings or improvements erected by it, provided the interests of the United States be not injured thereby.

I have therefore the honor to request you to be so good as to inform me whether the United States adhere to the terms of the arrangement above described, and I shall be glad to receive an assurance from you at the same time that this note will be considered by the United States Government as sufficient ratification of the above arrangement on the part of His Majesty's Government.

I have the honor, etc.,

JAMES BRYCE

Annex MM 24

EXCHANGE OF NOTES CONCERNING THE ADMINISTRATION AND LEASE OF CERTAIN SMALL ISLANDS ON THE NORTH BORNEO COAST BY THE US GOVERNMENT,

JULY 10, 1907

The Acting Secretary of State to the British Ambassador.

No. 109.]

DEPARTMENT OF STATE,
Washington, July 10, 1907.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 151 of the 3d instant, by which you inform me that His Majesty's Government, acting at the request and on behalf of the British North Borneo Company, are prepared to acquiesce in the last proposal stated in the letter of December 19, 1906, from the Secretary of State to Sir H. M. Durand, respecting the administration of certain islands on the east coast of Borneo, and that you are therefore instructed by His Majesty's principal secretary of state for foreign affairs to place the proposed arrangement formally on record without further delay.

The understanding of His Majesty's Government of the terms of the arrangement is stated by you to be as follows:

> Firstly. That the said company be left undisturbed in the administration of the islands in question without any agreement specifying details, the United States Government simply waiving in favor of the said company the right to such administration in the meantime; in other words, that the existing status be continued indefinitely at the pleasure of the two Governments concerned.
>
> Secondly. That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.
>
> Thirdly. That the temporary waiver of the right of administration on the part of the United States Government shall cover all the islands to the westward and southwestward of the line traced on the map which accompanied Sir H. M. Durand's memorandum of the 23d of June, 1906, and which is annexed to and to be deemed to form part of this note.
>
> Fourthly. That the British North Borneo Company, through His Majesty's Government, shall agree to the exemption of the United States Government from any claim or allegation that the latter Government has incurred any responsibility in respect of acts done in or from any island within the said line.
>
> Fifthly. That the understanding shall continue until the said two Goverments may by treaty delimit the boundary between their respective domains in that quarter or until the expiry of one year from the date when notice of termination be given by either to the other.
>
> Sixthly. That in case of denunciation, the United States Government shall not be responsible for the value of any buildings or other permanent improvements which may have been erected or made by the company upon the islands; but permission is hereby given to the company to remove, at its own expense, any buildings or improvements erected by it, provided the interests of the United States be not injured thereby.

The understanding of His Majesty's Government as above recited agreeing with that of the United States, I have the honor formally to announce the adherence of the United States to the arrangement and the acceptance of your note as sufficient ratification of the arrangement on the part of His Majesty's Government.

I have, etc.,

ROBERT BACON.

BOUNDARY DELIMITATION BETWEEN THE NETHERLAND POSSESSIONS AND THE STATE OF BRITISH NORTH BORNEO.

February 17, 1913.

WE, the undersigned: J. H. G. Schepers, engineer of the Triangulation Brigade, Netherland India, E. A. Vreede, 2nd Lieutenant of the Netherland Royal Navy, appointed by Netherland India Government Resolution No. 1 of the 9th April, 1912, and No. 38 of the 30th October, 1912, respectively, as leader and Joint Commissioner of the Netherland Commission to delimitate on the spot the frontier between Netherland territory and the State of British North Borneo; H. W. L. Bunbury, officer of the First Class, British North Borneo Civil Service, G. St. V. Keddell, surveyor, appointed by commission from his Excellency the Governor of British North Borneo, dated the 30th May, 1912, respectively, as Civil Commissioner and Surveyor representing the Government of British North Borneo; have the honour to report as follows:—

1. We have travelled in the neighbourhood of the frontier from the 8th June, 1912, to the 30th January, 1913, during which period the Netherland Commission has made the necessary astronomical observations and topographical surveys, the results of which we declare to be correct and sufficient for the determination of the boundary.

2. Where physical features did not present natural boundaries conformable with the provisions of the Boundary Treaty of the 20th June, 1891, we have erected the following pillars:—

(*a*.) Two pillars on the opposite banks of the Pentjiangan River, both marked "G.P. 1."

(*b*.) One pillar on the right bank of the Agisan River, marked "G.P. 3."

(*c*.) One pillar on the left bank of the Seboeda River, marked "G.P. 2."

All being on the parallel 4° 20′ north latitude.

3. We have determined the boundary between the Netherland territory and the State of British North Borneo, as described in the Boundary Treaty supplemented by the interpretation of Article 2 of

the Treaty mutually accepted by the Netherland and British Governments in 1905 as taking the following course:—

(1.) Traversing the island of Sibetik, the frontier line follows the parallel of 4° 10′ north latitude, as already fixed by Article 4 of the Boundary Treaty and marked on the east and west coasts by boundary pillars.

(2.) Starting from the boundary pillar on the west coast of the island of Sibetik, the boundary follows the parallel of 4° 10′ north latitude westward until it reaches the middle of the channel, thence keeping a mid-channel course until it reaches the middle of the mouth of Troesan Tamboe.

(3.) From the mouth of Troesan Tamboe the boundary line is continued up the middle of this Troesan until it is intersected by a similar line running through the middle of Troesan Sikapal; it then follows this line through Troesan Sikapal as far as the point where the latter meets the watershed between the Simengaris and Seroedong Rivers (Sikapal hill), and is connected finally with this watershed by a line taken perpendicular to the centre line of Troesan Sikapal.

(4.) From the point where this watershed (Sikapal hill) meets Troesan Sikapal the boundary line follows the watershed until the latter joins Mount Bemboeding.

[*Note.*—There is thus included in the Netherland territory all the country that is drained by the Simengaris River and its tributaries, while all the country that is drained by the Seroedong River and its tributaries is included in the territory of British North Borneo.]

(5.) Leaving the junction point of the Simengaris–Seroedong watershed with Mount Bemboeding, the boundary line follows successively—

(*a.*) Mount Bemboeding in a northerly direction.

(*b.*) Mount Pemantoengan Bagas and Mount Meliat in a westerly direction.

(*c.*) Mount Keblajoeng in a south-easterly direction.

(*d.*) The watershed between the Karawangan and Apat Rivers in a south-westerly direction.

(*e.*) The Inoeloeh Ketok hill in a northerly direction.

(*f.*) The watershed between the Loeloewejeu and Siangan streams in a westerly direction.

(*g.*) The most western spur of this watershed, intersected by a straight line running due east from boundary pillar "G.P. 2."

(*h.*) Along this straight line as far as pillar "G.P. 2."

[*Note.*—There is thus included in the Netherland territory all the country that is drained by any of the following rivers and their tributaries: Seboeloeh, Mesaloei, Tempilan, Apat, and Toelit, together with the Seboeda south of 4° 20′ north latitude and its eastern tributaries debouching south of that parallel; and in the territory of British North Borneo all the country drained by the Seroedong and its tributaries, and by the Seboeda north of 4° 20′ north latitude, and by the tributaries of the Seboeda debouching above that parallel.]

(6.) From the pillar "G.P. 2" the boundary line follows successively—

(*a*.) A straight line running due west as far as the most eastern spur of the watershed between the Linemoejoe and Labau streams, intersected by this straight line.
(*b*.) The above-mentioned spur.
(*c*.) The watershed between the Linemoejoe and Labau streams.
(*d*.) The watershed between the Labau and Balang streams.
(*e*.) The watershed (the Sinogo ridge) between the Agisan and Seboeda Rivers.
(*f*.) The watershed between the Lakoetan and Makalap streams.
(*g*.) The most western spur of the latter watershed, intersected by a straight line running due east from boundary pillar "G.P. 3."
(*h*.) This straight line itself as far as pillar "G.P. 3."

[*Note*.—There is thus included in the Netherland territory all the country drained by the western tributaries of the Seboeda and the eastern tributaries of the Agisan debouching below 4° 20′ north latitude, and in the territory of British North Borneo the country drained by the corresponding tributaries debouching above that parallel.]

(7.) From the pillar "G.P. 3" the boundary line follows successively—

(*a*.) A straight line running due west as far as the most eastern spur of the watershed between the Klawasan and Mesaloei streams intersected by this line.
(*b*.) The above-mentioned spur.
(*c*.) The watershed between the Klawasan and Mesaloei streams.
(*d*.) The watershed (Peloetan ridge) between the Sesoegon and Agisan streams.
(*e*.) The main watershed between the Sembakoeng and Seboekoe Rivers in a south-westerly direction.
(*f*.) The watershed (Mount Boedjoek Bah) between the Sementebel, with its tributaries, and the Semantaloen, with its tributaries.
(*g*.) The watershed (Mount Boedjoek Bah) between the Sementebel, with its tributaries, and the Seliman and Semangawat, with their tributaries.
(*h*.) The watershed (Poegisiai hill) between the Semandapi, with its tributaries, and the Sementebel, with its tributaries, as far as the Toenoegan hill.
(*i*.) The watershed between the Semandapi, with its tributaries, and the eastern tributaries of the Pentjiangan River debouching below 4° 20′ north latitude, as far as the intersection of this watershed with a straight line running due east from the pillar "G.P. 1" on the left bank of the Pentjiangan.
(*j*.) This straight line itself.

[*Note*.—There is thus included in the Netherland territory all the country drained by the Agisan River south of 4° 20′ north latitude, and by the western tributaries of the Agisan debouching below that parallel, and by the eastern tributaries of the Pentjiangan debouching below the same parallel; and in the territory of British North Borneo all the country drained by the Agisan River north of 4° 20′ north latitude, and by the western tributaries of the Agisan and eastern tributaries of the Pentjiangan River debouching above 4° 20′ north latitude.]

(8.) From the pillar "G.P. 1" on the left bank of the Pentjiangan River the boundary line follows successively—

(*a.*) A line running due west to the pillar "G.P. 1" on the right bank.

(*b.*) The first hill-spur south of the Lombai stream as far as its junction with the main watershed between the tributaries of the Pentjiangan debouching north of 4° 20′ north latitude and the tributaries that debouch south of that latitude.

(*c.*) The last-named watershed as far as the Seselatan hill.

(*d.*) The watershed, or series of watersheds, dividing the northern tributaries of the Sedalir that debouch above 4° 20′ latitude from those that debouch below that parallel.

(*e.*) The most western spur of this watershed, or series of sheds, intersected by parallel 4° 20′ north latitude.

(*f.*) The parallel 4° 20′ north latitude crossing the Sedalir until it meets the most eastern spur of the watersh series of watersheds, between the southern tributar the Sedalir that debouch above parallel 4° 20′ latitude and those that debouch below that paral conformity with Article 2 of the Treaty.

(*g.*) The last-named watershed, or series of watersheds (necessary, the watershed between the Sedalir and Sesajap Rivers), until they meet the main water described in Article 3 of the Treaty.

[*Note.*—There is thus included in the Netherland territo country that is drained by the Pentjiangan below 4° 20′ latitude, by the Sedalir below that parallel, by the tributaries o of these rivers debouching below 4° 20′ north latitude, and Sesajap River; and in the territory of British North Borne country that is drained by the Pentjiangan north of 4° 20′ latitude, by the Sedalir north of that parallel, and by the tribu of both of these rivers debouching north of 4° 20′ north latitud

To the above we have all agreed and appended our signat Tawao British North Borneo, this 17th day of February, 1913.

J. H. G. SCHEPEL.
E. A. VREEDE.
W. H. L. BUNBURY.
G. ST. V. KEDDELL.

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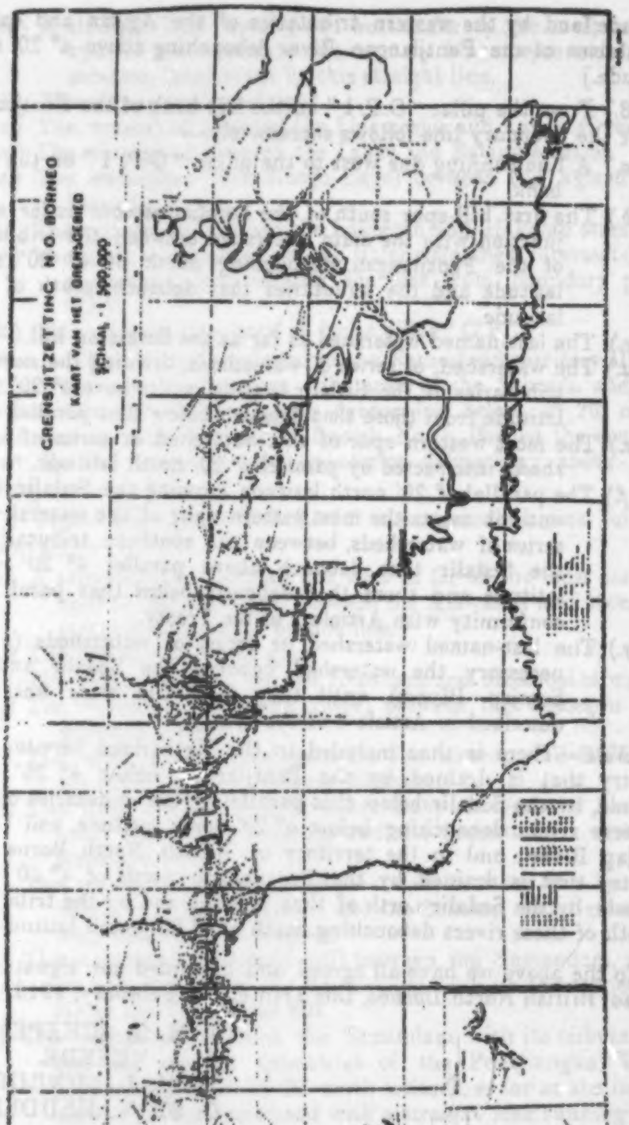

GRENSUITZETTING N.O. BORNEO
KAART VAN HET GRENSGEBIED
SCHAAL - 1 : 500,000

Annex MM 26

SEBATIK BOUNDARY SURVEY,
MAY 6, 1914

SEBATIK BOUNDARY SURVEY.

Early in December I received instructions to accompany a Dutch party to delimitate the Anglo-Dutch frontier of Sebatik Island. On the 22nd of December, Lt. Boeje and Sergeant Major Boenecke arrived at the Western point of Sebatik and sent me notice of their arrival.

I went to this spot on Christmas Day with Mr. Fendall, Surveyor, and found there the two Dutch Officers mentioned above and 9 prisoners. Work was commenced at once. The Dutch representatives had been given by their Government the choice of two methods of survey and after some discussion and reference to our Secretariat, it was agreed to use that called "Bussole Tranche Montagne." Of this method neither Mr. Fendall nor myself had any knowledge. With it it is unnecessary to use a chain as distances are obtained from the instrument itself. Had I at the time known the peculiar difficulties attending the use of this instrument, I should have strongly recommended the use of the theodolite. With the Dutch method it is necessary to erect a number of flags, or other prominent marks for checking purposes, and from December the 25th to the 9th of January, the jungle was cleared and observation posts erected at Bannkan, Bura Point, on the mainland the western pillar of Sebatik, and the end of Sedam Island, just off Sebatik. When these were finished the work of erecting observation stations on Sebatik itself and of rentis cutting was started.

On the 6th January the number of Dutch prisoners, who were acting as coolies, was brought up to 40. On the 19th of January, Mr. Fendall commenced to erect a tower over the eastern point of Sebatik as Mr. Boeje informed me that it was necessary for him to get bearings on this. No success attended this, and after Mr. Boeje had erected several other observation stations in the centre of the Island without any success, it was decided to,put a rentis through the Island and observe the whole length of this. This work was started on February 17th and finished on March [illegible]. The result of the measurements and observations proved that the granite pillars erected in 1901 are not on the 4.10 parallel, and we found it necessary to ask for instruction whether to use the pillars or the actual parallel. After some delay orders were received from both Governments that the pillars were to be used, and on April 27th the work of erecting concrete pillars was started. Suitable spots were chosen by the Surveyors and by May 3rd 16 concrete pillars had been erected along the straight line between the two granite pillars. Each pillar is 60 x 36 x 80 centimetres, forty of which show above the ground.

Considerable time would have been saved had Mr. Beeje taken my suggestion and consulted his Government as to the procedure to be followed should the pillars prove not to be on the 4. 10 line, but he preferred to await the result of the measurements, and there was some delay in getting answers.

The work of course would have been completed very much sooner had free labour, rather than prison labour, been used. large number of the Dutch prisoners fell sick and practically none of them were accustomed to real jungle work.

I attach a schedule of co-ordinates from the Eastern pillar showing the position of the various boundary stones erected. A sketch map which is of no value for this report, is in the hands of the Survey Department.

I also attach a copy of the agreement signed by the Dutch Commissioner, Mr. Fendall and myself.

Sd/- W.C. Moores [illegible]
District Officer
Tawao.

Boundary Delimitation between the Nederland and British North Borneo portion of Sebatik Island.

We the undersigned:-

D.A.M.Q. Boeje, First Lieutenant of the Nederland Indian Army, appointed by Nederland India Government Resolution No.14 of the 27th November, 1913, to delimitate on the spot the Frontier between Nederland and British North Borneo Portion of the Island of Sebatik.

W.C. Moores Weedon, District Officer, Tawao, British North Borneo, H.L.Fandall, Assistant Surveyor, North Borneo Service, instructed by the British North Borneo Government to accompany Mr. Boeje while erecting boundary pillars on Sebatik frontier, have the honour to report as follows:-

In accordance with instructions received from our respective Governments we have taken as the boundary the straight line between the granite pillars on the East and West of Sebatik Island, which were erected in 1901 by a Commission consisting of H.M. Macassar and H.M.S. "Waterwitch" and upon that line we have erected 16 concrete pillars.

To the above we have all agreed and have appended our signatures at Tawao, British North Borneo, this 6th day of May, 1914.

Co-ordinates from Eastern Pillars.

	South Metre	West Metre		Metre
Pillar 1.	10.5	1496.4	Distance from Eastern Pillar	1496.4
2.	20.6	2946.6		2946.7
3.	26.8	4114.0		4114.1
4.	39.1	5584.7		5584.8
5.	48.7	6946.6		6946.8
6.	55.5	7924.1		7924.3
7.	63.6	9087.3		9087.5
8.	72.8	10399.9		10400.1
9.	84.6	12072.4		12072.7
10.	94.1	12439.9		12440.2
11.	104.7	14962.6		14963.0
12.	114.9	16392.5		16392.9
13.	123.4	17625.1		17625.6
14.	129.2	18441.8		18442.3
15.	143.7	20585.6		20586.1
16.	155.6	22228.2		22228.7
			Western Pillar.	
	166.6	23801.2		23801.8

Annex MM 27

AGREEMENT BETWEEN THE UNITED KINGDOM AND THE NETHERLANDS RELATING TO THE BOUNDARY BETWEEN THE STATE OF NORTH BORNEO AND THE NETHERLAND POSSESSIONS IN BORNEO, SEPTEMBER 28, 1915

H. W. L. Bunbury, officer of the First Class, British North Borneo [illegible] Service, G. St. V. Keddell, surveyor, appointed by commission from his Excellency the Governor of British North Borneo, dated the 30th May, 1912, respectively, as Civil Commissioner and Surveyor representing the Government of British North Borneo; have the honour to report as follows:—

1. We have travelled in the neighbourhood of the frontier from the 8th June, 1912, to the 30th January, 1913, during which period the Netherland Commission has made the necessary astronomical observations and topographical surveys, the results of which we declare to be correct and sufficient for the determination of the boundary.

2. Where physical features did not present natural boundaries conformable with the provisions of the Boundary Treaty of the 20th June, 1891, we have erected the following pillars:—

(*a.*) Two pillars on the opposite banks of the Pentjiangan River, both marked "G.P. 1."

(*b.*) One pillar on the right bank of the Agisan River, marked "G.P. 3."

(*c.*) One pillar on the left bank of the Seboeda River, marked "G.P. 2."

All being on the parallel 4° 20′ north latitude.

3. We have determined the boundary between the Netherland territory and the State of British North Borneo, as described in the Boundary Treaty supplemented by the interpretation of Article 2 of the Treaty mutually accepted by the Netherland and British Governments in 1905 as taking the following course:—

(1.) Traversing the island of Sibetik, the frontier line follows the parallel of 4° 10′ north latitude, as already fixed by Article 4 of the Boundary Treaty and marked on the east and west coasts by boundary pillars.

(2.) Starting from the boundary pillar on the west coast of the island of Sibetik, the boundary follows the parallel of 4° 10′ north latitude westward until it reaches the middle of the channel, thence keeping a mid-channel course until it reaches the middle of the mouth of Troesan Tamboe.

(3.) From the mouth of Troesan Tamboe the boundary line is continued up the middle of this Troesan until it is intersected by a similar line running through the middle of Troesan Sikapal; it then follows this line through Troesan Sikapal as far as the point where the latter meets the watershed between the Simengaris and Seroedong Rivers (Sikapal hill), and is connected finally with this watershed by a line taken perpendicular to the centre line of Troesan Sikapal.

(4.) From the point where this watershed (Sikapal hill) meets Troesan Sikapal the boundary line follows the watershed until the latter joins Mount Bemboeding.

[*Note.*—There is thus included in the Netherland territory all the country that is drained by the Simengaris River and its tributaries, while all the country that is drained by the Seroedong River and its tributaries is included in the territory of British North Borneo.]

(5.) Leaving the junction point of the Simengaris–Seroedong watershed with Mount Bemboeding, the boundary line follows successively—

(a.) Mount Bemboeding in a northerly direction.
(b.) Mount Pemantoengan Bagas and Mount Meliat in a westerly direction.
(c.) Mount Keblajoeng in a south-easterly direction.
(d.) The watershed between the Karawangan and Apat Rivers in a south-westerly direction.
(e.) The Inoeloeh Ketek hill in a northerly direction.
(f.) The watershed between the Loeloewejen and Siangan streams in a westerly direction.
(g.) The most western spur of this watershed, intersected by a straight line running due east from boundary pillar "G.P. 2."
(h.) Along this straight line as far as pillar "G.P. 2."

[*Note.*—There is thus included in the Netherland territory all the country that is drained by any of the following rivers and their tributaries: Seboeloeh, Mesaloei, Tempilan, Apat, and Toelit, together with the Seboeda south of 4° 20′ north latitude and its eastern tributaries debouching south of that parallel; and in the territory of British North Borneo all the country drained by the Seroedong and its tributaries, and by the Seboeda north of 4° 20′ north latitude, and by the tributaries of the Seboeda debouching above that parallel.]

(6.) From the pillar "G.P. 2" the boundary line follows successively—

(a.) A straight line running due west as far as the most eastern spur of the watershed between the Linemoejoe and Labau streams, intersected by this straight line.
(b.) The above-mentioned spur.
(c.) The watershed between the Linemoejoe and Labau streams.
(d.) The watershed between the Labau and Balang streams.
(e.) The watershed (the Sinogo ridge) between the Agisan and Seboeda Rivers.
(f.) The watershed between the Lakoetan and Makalap streams.
(g.) The most western spur of the latter watershed, intersected by a straight line running due east from boundary pillar "G.P. 3."
(h.) This straight line itself as far as pillar "G.P. 3."

[*Note.*—There is thus included in the Netherland territory all the country drained by the western tributaries of the Seboeda and the eastern tributaries of the Agisan debouching below 4° 20′ north latitude, and in the territory of British North Borneo the country drained by the corresponding tributaries debouching above that parallel.]

(7.) From the pillar "G.P. 3" the boundary line follows successively—

(a.) A straight line running due west as far as the most eastern spur of the watershed between the Klawasan and Mesaloei streams intersected by this line.
(b.) The above-mentioned spur.

(*c*.) The watershed between the Klawasan and Masaloei streams.

(*d*.) The watershed (Peloetan ridge) between the Sesoegon and Agisan streams.

(*e*.) The main watershed between the Sembakoeng and Seboekoe Rivers in a south-westerly direction.

(*f*.) The watershed (Mount Boedjoek Bah) between the Sementebel, with its tributaries, and the Semantaloen, with its tributaries.

(*g*.) The watershed (Mount Boedjoek Bah) between the Sementebel, with its tributaries, and the Seliman and Semangawat, with their tributaries.

(*h*.) The watershed (Poegisiai hill) between the Semandapi, with its tributaries, and the Sementebel, with its tributaries, as far as the Toenangan hill.

(*i*.) The watershed between the Semandapi, with its tributaries, and the eastern tributaries of the Pentjiangan River debouching below 4° 20′ north latitude, as far as the intersection of this watershed with a straight line running due east from the pillar "G.P. 1" on the left bank of the Pentjiangan.

(*j*.) This straight line itself.

[*Note*.—There is thus included in the Netherland territory all the country drained by the Agisan River south of 4° 20′ north latitude, and by the western tributaries of the Agisan debouching below that parallel, and by the eastern tributaries of the Pentjiangan debouching below the same parallel; and in the territory of British North Borneo all the country drained by the Agisan River north of 4° 20′ north latitude, and by the western tributaries of the Agisan and eastern tributaries of the Pentjiangan River debouching above 4° 20′ north latitude.]

(8.) From the pillar "G.P. 1" on the left bank of the Pentjiangan River the boundary line follows successively—

(*a*.) A line running due west to the pillar "G.P. 1" on the right bank.

(*b*.) The first hill-spur south of the Lombai stream as far as its junction with the main watershed between the tributaries of the Pentjiangan debouching north of 4° 20′ north latitude and the tributaries that debouch south of that latitude.

(*c*.) The last-named watershed as far as the Seselatan hill.

(*d*.) The watershed, or series of watersheds, dividing the northern tributaries of the Sedalir that debouch above 4° 20′ north latitude from those that debouch below that parallel.

(*e*.) The most western spur of this watershed, or series of watersheds, intersected by parallel 4° 20′ north latitude.

(*f*.) The parallel 4° 20′ north latitude, crossing the Sedalir River until it meets the most eastern spur of the watershed, or series of watersheds, between the southern tributaries of the Sedalir that debouch above parallel 4° 20′ north latitude and those that debouch below that parallel, in conformity with Article 2 of the Treaty.

(*g*.) The last-named watershed, or series of watersheds (and, if necessary, the watershed between the Sedalir and the Sesajap Rivers), until they meet the main watershed described in Article 3 of the Treaty.

[*Note*.—There is thus included in the Netherland territory the country that is drained by the Pentjiangan below 4° 20′ north latitude, by the Sedalir below that parallel, by the tributaries of both of these rivers debouching below 4° 20′ north latitude, and by the Sesajap River; and in the territory of British North Borneo any country that is drained by the Pentjiangan north of 4° 20′ north latitude, by the Sedalir north of that parallel, and by the tributaries of both of these rivers debouching north of 4° 20′ north latitude.]

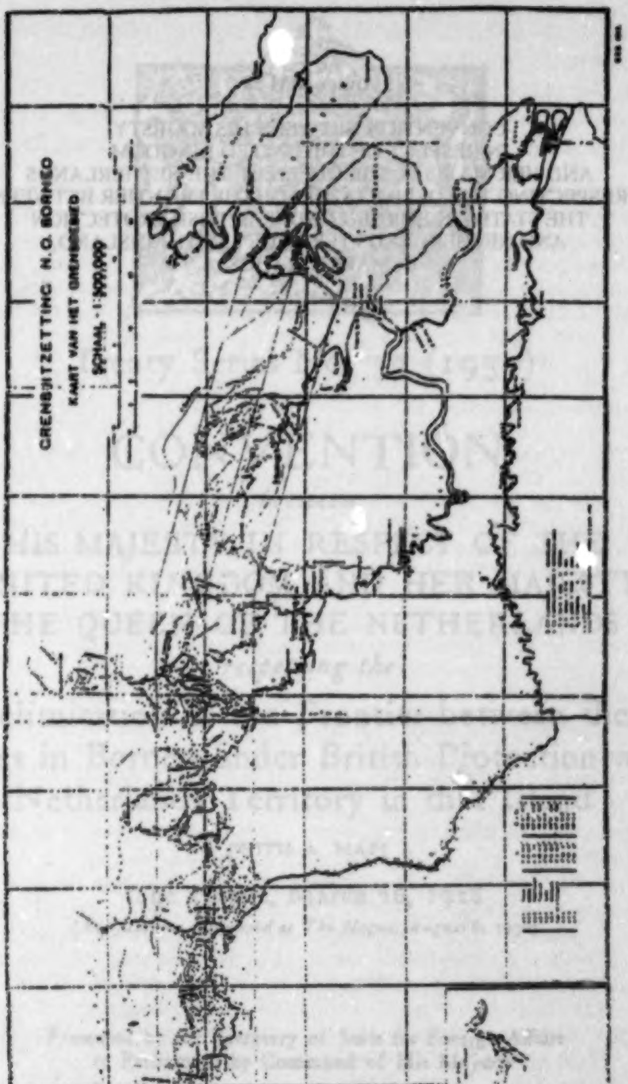
To the above we have all agreed and appended our signatures at Tawao, British North Borneo, this 17th day of February, 1913.

J. H. G. SCHEPERS.
E. A. VREEDE.
H. W. L. BUNBURY.
G. ST. V. KEDDELL.

In witness whereof the undersigned have signed the present Agreement and have affixed thereto their seals.	Ten blijke waarvan de ondergeteekenden deze overeenkomst hebben onderteekend en van hunne zegels voorzien.
Done at London, the 28th day of September, 1915.	Gedaan te Londen, den 28 September 1915.

(L.S.) E. GREY.

(L.S.) R. DE MAREES VAN SWINDEREN.


GRENSBIJZETTING N.O. BORNEO
KAART VAN HET GRENSGEBIED
SCHAAL - 1:500,000

Annex MM 28

CONVENTION BETWEEN HIS MAJESTY IN RESPECT OF THE UNITED KINGDOM AND HER MAJESTY THE QUEEN OF THE NETHERLANDS RESPECTING THE DELIMITATION OF THE FRONTIER BETWEEN THE STATES IN BORNEO UNDER BRITISH PROTECTION AND NETHERLANDS TERRITORY IN THAT ISLAND,

MARCH 26, 1928

Treaty Series No. 32 (1930)

CONVENTION

between

HIS MAJESTY IN RESPECT OF THE UNITED KINGDOM AND HER MAJESTY THE QUEEN OF THE NETHERLANDS

respecting the

Delimitation of the Frontier between the States in Borneo under British Protection and Netherlands Territory in that Island

[WITH A MAP]

The Hague, March 26, 1928

[Ratifications exchanged at The Hague, August 6, 1930]

Presented by the Secretary of State for Foreign Affairs to Parliament by Command of His Majesty

LONDON:
PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE
To be purchased directly from H.M. STATIONERY OFFICE at the following addresses.
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1930

Convention between His Majesty in respect of the United Kingdom and Her Majesty the Queen of the Netherlands respecting the Delimitation of the Frontier between the States in Borneo under British Protection and Netherlands Territory in that Island.

The Hague, March 26, 1928.

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and Her Majesty the Queen of the Netherlands,

Being desirous of further delimiting part of the frontier established in article III of the Convention signed at London on the 20th June, 1891, for the delimitation of the boundary line between the States in the Island of Borneo which are under British protection and the Netherlands territory in that island,

Have resolved to conclude a Convention for that purpose, and have appointed as their plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

For Great Britain and Northern Ireland:

The Right Honourable the Earl Granville, G.C.V.O, K.C.M.G., His Majesty's Envoy Extraordinary and Minister Plenipotentiary at The Hague;

Her Majesty the Queen of the Netherlands:

Jonkheer Frans Beelaerts van Blokland, Her Majesty's Minister for Foreign Affairs, and

Dr. Jacob Christiaan Koningsberger, Her Majesty's Minister for the Colonies;

who, having communicated their full powers, found in good and

Zijne Majesteit de Koning van Groot-Britannië, Ierland en de Britsche Overzeesche Gebieden, Keizer van Indië, en Hare Majesteit de Koningin der Nederlanden,

Wenschende een gedeelte der grens, vastgesteld bij artikel III van het op den 20sten Juni 1891 te Londen onderteekend verdrag tot aanwijzing van de grenslijn tusschen de Staten op het eiland Borneo die onder Britsch protectoraat staan en het Nederlandsche gebied op dat eiland nader vast te stellen,

Hebben goedgevonden te dien einde een verdrag te sluiten en hebben als HoogstDerzelver gevolmachtigden aangewezen:

Zijne Majesteit de Koning van Groot-Britannië, Ierland en de Britsche Overzeesche Gebieden, Keizer van Indië,

Voor Groot-Britannië en Noord-Ierland:

The Right Honourable Graaf Granville, G.C.V.O., K.C.M.G., HoogstDeszelfs Buitengewoon Gezant en Gevolmachtigd Minister te 's-Gravenhage;

Hare Majesteit de Koningin der Nederlanden:

Jonkheer Frans Beelaerts van Blokland, HoogstDerzelver Minister van Buitenlandsche Zaken, en

Dr. Jacob Christiaan Koningsberger, HoogstDerzelver Minister van Koloniën;

die na mededeeling hunner volmachten, welke in goeden en due form, have agreed as follows:—

ARTICLE 1.

The boundary as defined in article III of the Convention signed at London on the 20th June, 1891, is further delimited between the summits of the Gunong Api and of the Gunong Raya as described in the following article and as shown on the map attached to this Convention.

ARTICLE 2.

From the Gunong Api triangulation station, where a pillar has been erected, the boundary line bears approximately W.S.W. for a distance of four hundred and fifty metres to a point on Gunong Api, where a pillar has been erected; thence it follows the watershed downwards in an approximately S.W. direction for a distance of six hundred and fifty metres to a point, where a pillar has been erected; thence in an approximately W. by N. direction for a distance of seven hundred metres to a point on the footpath from Gumbang astronomical station to Siding, where a pillar has been erected; thence following the footpath generally in a N.E. direction for a distance of five hundred metres to point Batu Aum, where a pillar has been erected; thence in a straight line bearing approximately N.W. by N. to the first stream, tributary of the Odong river, a distance of six hundred metres; thence following the tributary on its right bank in a generally W. direction to the confluence with the Odong river, where a pillar has been erected; thence in a straight line bearing approximately N.W. to a point on the left bank of the Tring

behoorlijken vorm zijn bevonden, het volgende zijn overeengekomen:

ARTIKEL 1.

De grens als vastgesteld in artikel III van het op den 20sten Juni 1891 te Londen geteekend verdrag wordt tusschen de toppen van den Goenoeng Api en van den Goenoeng Raja nader vastgesteld als omschreven in het volgend artikel en als aangegeven op de kaart, welke bij dit verdrag is gevoegd.

ARTIKEL 2.

Van het triangulatie-station Goenoeng Api, waar een pilaar is geplaatst, loopt de grenslijn in ongeveer W.Z.W. richting over een afstand van vierhonderd vijftig meter tot een punt op den Goenoeng Api, waar een pilaar is geplaatst; vandaar volgt de grens de waterscheiding afwaarts in ongeveer Z.W. richting over een afstand van zeshonderd vijftig meter tot een punt, waar een pilaar is geplaatst; vandaar in een richting ongeveer W. ten N. over een afstand van zevenhonderd meter tot een punt op het voetpad van het astronomisch station Goembang naar Siding, waar een pilaar is geplaatst; vandaar het voetpad volgende in eene over het algemeen N.O. richting over een afstand van vijfhonderd meter tot punt Batoe Aoem, waar een pilaar is geplaatst; vandaar in een rechte lijn loopende ongeveer N.W. ten N. tot de eerste rivier, een zijtak van de Odong rivier, een afstand van zeshonderd meter; vandaar den zijtak op den rechteroever volgende in eene over het algemeen W. richting tot de samenvloeiing met de Odong rivier, waar een pilaar is geplaatst; vandaar in een rechte lijn loopende ongeveer N.W. tot een punt op

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stream, where a pillar has been erected; thence in a generally N.W. direction to a point on the left bank of the Toepijem river, where a pillar has been erected; thence in a generally N.N.W. direction to a point on the right bank of the Pon stream, where a pillar has been erected; thence following the crest in a generally W. by N. direction to a point on the left bank of the Meroemo river, where a pillar has been erected; thence across the Meroemo river to a point on its right bank, where a pillar has been erected; thence following the watershed in a generally N.W. direction to the Gunong Brunei triangulation station, where a pillar has been erected.

From the Gunong Brunei triangulation station the boundary line bears approximately N.N.W. in a straight line to the Gunong Jagoi (Poko Payong) triangulation station, where a pillar has been erected at the point where this straight line cuts the footpath between Billeh and Jagoi Babang.

From the Gunong Jagoi (Poko Payong) triangulation station the boundary line follows the right bank of the Boewan river (which has its source within fifty metres of the abovementioned pillar) in a generally N. direction to its confluence with the Berenas river, at which point a pillar has been erected. Pillars have also been placed on the right bank of the Boewan river at the point where it is crossed by the footpath between Setaas and Siloewas and where it is crossed by the footpath between Setaas and Gunong Raya. From the point of confluence of the Boewan and Berenas

den linkeroever van de Tring rivier, waar een pilaar is geplaatst; vandaar in eene over het algemeen N.W. richting tot een punt op den linkeroever van de Toepijem rivier, waar een pilaar is geplaatst; vandaar in eene over het algemeen N.N.W. richting tot een punt op den rechteroever van de Pon rivier, waar een pilaar is geplaatst; vandaar den bergrug volgende in eene over het algemeen W. ten N. richting tot een punt op den linkeroever van de Meroemo rivier, waar een pilaar is geplaatst; vandaar over de Meroemo rivier tot een punt op haar rechteroever, waar een pilaar is geplaatst; vandaar de waterscheiding volgende in eene over het algemeen N.W. richting tot het triangulatiestation Goenoeng Broenai, waar een pilaar is geplaatst.

Van het triangulatie-station Goenoeng Broenai loopt de grenslijn ongeveer N.N.W. in een rechte lijn tot het Goenoeng Djagoei (Poko Pajoeng) triangulatie-station, waar een pilaar is geplaatst op het punt waar deze rechte lijn het voetpad tusschen Billeh en Djagoei Babang snijdt.

Van het Goenoeng Djagoei (Poko Pajoeng) triangulatiestation volgt de grenslijn den rechteroever van de Boewan rivier (welke binnen vijftig meter van bovengenoemden pilaar ontspringt) in eene over het algemeen N. richting tot haar samenvloeiing met de Berenas rivier, op welk punt een pilaar is geplaatst. Pilaren zijn eveneens geplaatst op den rechteroever van de Boewan rivier bij het punt waar zij wordt gekruist door het voetpad tusschen Setaäs en Siloewas en waar zij wordt gekruist door het voetpad tusschen Setaäs en Goenoeng Raja. Van het samenvloeiingspunt van de Boewan en de Berenas rivier

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rivers the boundary line follows the Berenas river on its right bank to its confluence with the Separan river, where a pillar has been erected on the right bank of the Berenas river and another on the right bank of the Separan river opposite to that of the right bank of the Berenas river. From the latter pillar the boundary line bears approximately N.W. in a straight line to the Gunong Raya triangulation station, where a pillar has been erected. From this triangulation station the boundary line bears approximately E.N.E. along the crest of the Gunong Raya to its top, where on account of the nature of the soil no pillar has been erected.

ARTICLE 3.

The present Convention shall be ratified and shall come into force three months after the exchange of the acts of ratification, which shall take place at The Hague as soon as possible.

In witness whereof the respective plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate at The Hague, the 26th day of March, 1928.

volgt de grenslijn de Berenas rivier op haar rechteroever tot haar samenvloeiing met de Separan rivier, waar een pilaar is geplaatst op den rechteroever van de Berenas rivier en een andere op den rechteroever van de Separan rivier tegenover dien op den rechteroever van de Berenas rivier. Van dezen laatsten pilaar loopt de grenslijn ongeveer N.W. in een rechte lijn tot het triangulatie-station Goenoeng Raja, waar een pilaar is geplaatst. Van dit triangulatie-station loopt de grenslijn ongeveer O.N.O. langs den bergrug van den Goenoeng Raja tot zijn top, waar wegens de bodemgesteldheid geen pilaar is geplaatst.

ARTIKEL 3.

Dit verdrag zal worden bekrachtigd en zal in werking treden drie maanden na de uitwisseling der akten van bekrachtiging welke zoo spoedig mogelijk te 's-Gravenhage zal plaats hebben.

Ter oorkonde waarvan de wederzijdsche gevolmachtigden dit verdrag hebben onderteekend en er hunne zegels aan hebben gehecht.

Gedaan in dubbel te 's-Gravenhage, den 26sten Maart 1928.

(L.S.) GRANVILLE.

(L.S.) BEELAERTS VAN BLOKLAND.

(L.S.) KONINGSBERGER.

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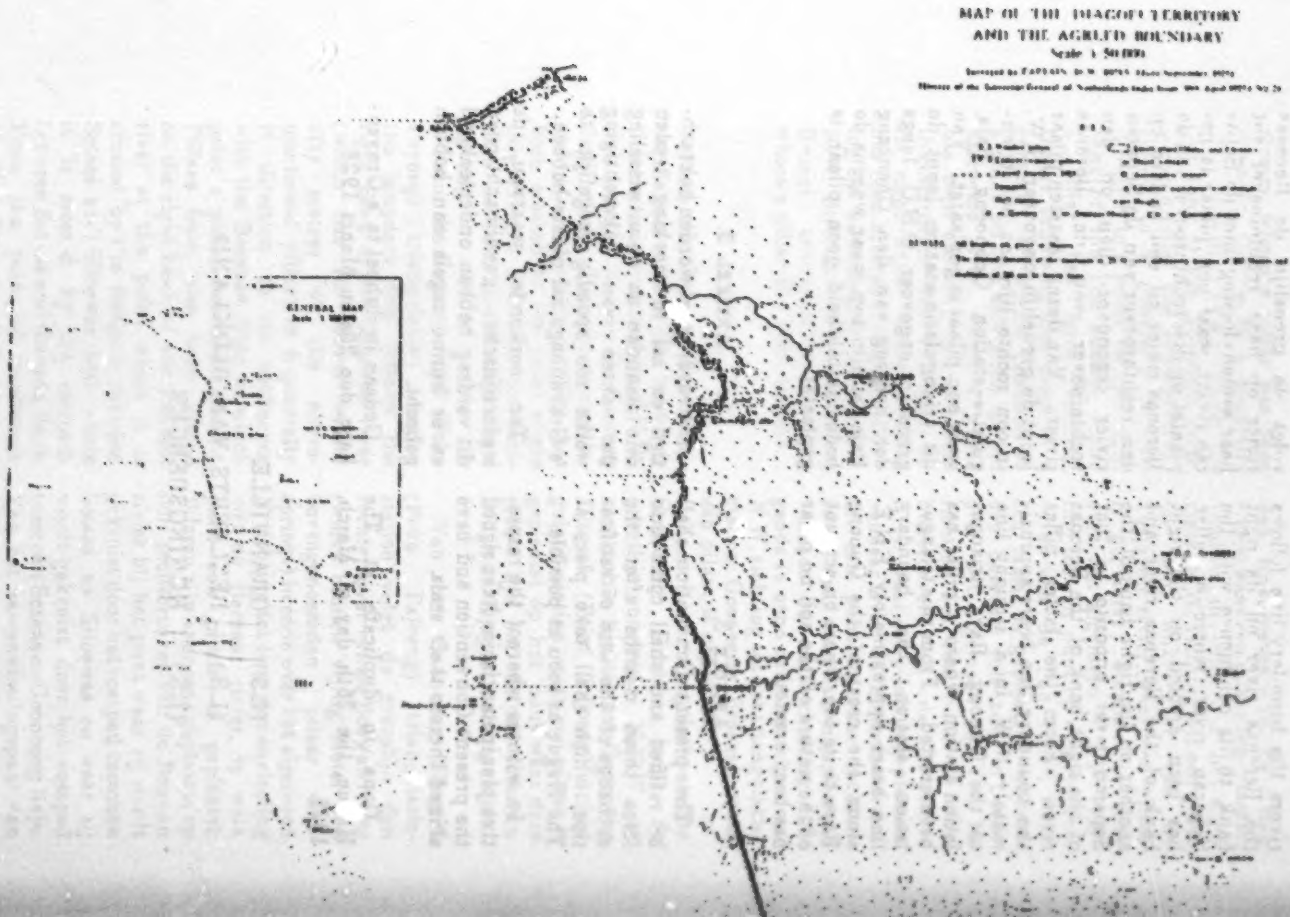
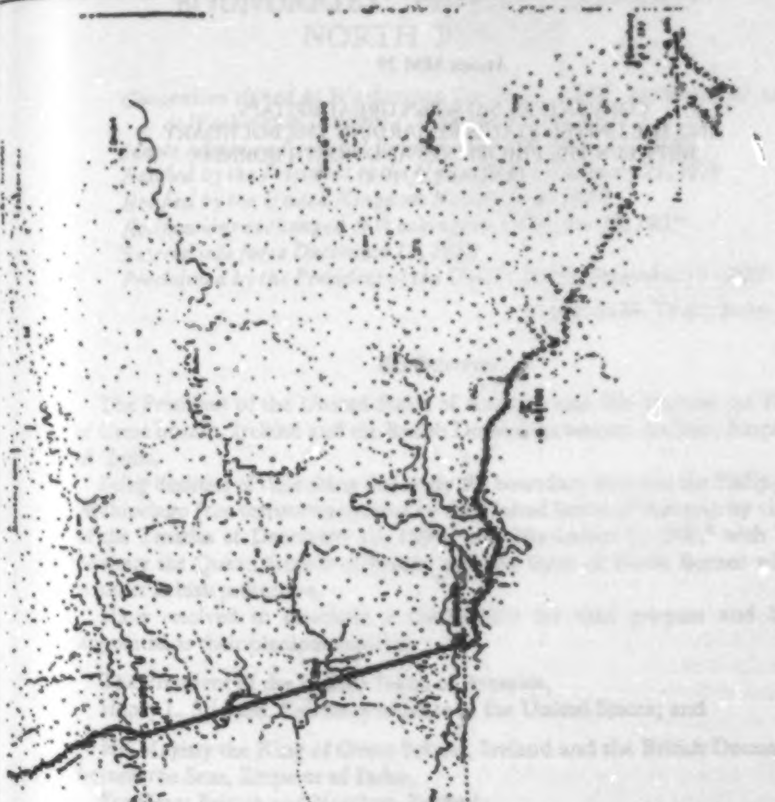

MAP OF THE [illegible] TERRITORY
AND THE AGREED BOUNDARY
GENERAL MAP



Map attached to the Convention concluded between Great Britain and the Netherlands at The Hague on March 26th 1928 for the delimitation of the boundary line in the Island of Borneo.

Annex MM 29

CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES REGARDING THE BOUNDARY BETWEEN THE PHILIPPINES AND NORTH BORNEO, JANUARY 2, 1930

BOUNDARIES: PHILIPPINES AND NORTH BORNEO

Convention signed at Washington January 2, 1930; exchanges of notes at Washington January 2, 1930, and July 6, 1932
Senate advice and consent to ratification February 11, 1930
Ratified by the President of the United States February 21, 1930
Ratified by the United Kingdom November 2, 1932
Ratifications exchanged at Washington December 13, 1932
Entered into force December 13, 1932
Proclaimed by the President of the United States December 15, 1932

47 Stat. 2198; Treaty Series 856

CONVENTION

The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

Being desirous of delimiting definitely the boundary between the Philippine Archipelago (the territory acquired by the United States of America by virtue of the Treaties of December 10, 1898,[1] and November 7, 1900,[2] with Her Majesty the Queen Regent of Spain) and the State of North Borneo which is under British protection,

Have resolved to conclude a Convention for that purpose and have appointed as their plenipotentiaries:

The President of the United States of America,
Henry L. Stimson, Secretary of State of the United States; and

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,
For Great Britain and Northern Ireland:
The Right Honorable Sir Esme Howard, G.C.B., G.C.M.G., C.V.O., His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington;

Who, having communicated to each other their respective full powers found in good and due form have agreed upon and concluded the following Articles:

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[1] TS 343, *ante*, vol. 11, p. 615, SPAIN.
[2] TS 345, *ante*, vol. 11, p. 623, SPAIN.

ARTICLE I

It is hereby agreed and declared that the line separating the islands belonging to the Philippine Archipelago on the one hand and the islands belonging to the State of North Borneo which is under British protection on the other hand shall be and is hereby established as follows:

From the point of intersection of the parallel of four degrees forty-five minutes (4° 45′) north latitude and the meridian of longitude one hundred twenty degrees (120° 0′) east of Greenwich, (being a point on the boundary defined by the Treaty between the United States of America and Spain signed at Paris, December 10, 1898), a line due south along the meridian of longitude one hundred twenty degrees (120° 0′) east of Greenwich to its point of intersection with the parallel of four degrees twenty-three minutes (4° 23′) north latitude;

thence due west along the parallel of four degrees twenty-three minutes (4° 23′) north latitude to its intersection with the meridian of longitude one hundred nineteen degrees (119° 0′) east of Greenwich;

thence due north along the meridian of longitude one hundred nineteen degrees (119° 0′) east of Greenwich to its intersection with the parallel of four degrees forty-two minutes (4° 42′) north latitude;

thence in a straight line approximately 45° 54′ true (N 45° 54′ E) to the intersection of the parallel of five degrees sixteen minutes (5° 16′) north latitude and the meridian of longitude one hundred nineteen degrees thirty-five minutes (119° 35′) east of Greenwich;

thence in a straight line approximately 314° 19′ true (N 45° 41′ W) to the intersection of the parallel of six degrees (6° 0′) north latitude and the meridian of longitude one hundred eighteen degrees fifty minutes (118° 50′) east of Greenwich;

thence due west along the parallel of six degrees (6° 0′) north latitude to its intersection with the meridian of longitude one hundred eighteen degrees twenty minutes (118° 20′) east of Greenwich;

thence in a straight line approximately 307° 40′ true (N 52° 20′ W) passing between Little Bakkungaan Island and Great Bakkungaan Island to the intersection of the parallel of six degrees seventeen minutes (6° 17′) north latitude and the meridian of longitude one hundred seventeen degrees fifty-eight minutes (117° 58′) east of Greenwich;

thence due north along the meridian of longitude one hundred seventeen degrees fifty-eight minutes (117° 58′) east of Greenwich to its intersection with the parallel of six degrees fifty-two minutes (6° 52′) north latitude;

thence in a straight line approximately 315° 16′ true (N 44° 44′ W) to the intersection of the parallel of seven degrees twenty-four minutes forty-five seconds (7° 24′ 45″) north latitude with the meridian of longitude one hundred seventeen degrees twenty-five minutes thirty seconds (117° 25′ 30″) east of Greenwich;

thence in a straight line approximately 300° 56′ true (N 59° 4′ W) through the Mangsee Channel between Mangsee Great Reef and Mangsee Islands to the intersection of the parallel of seven degrees forty minutes (7° 40′) north latitude and the meridian of longitude one hundred seventeen degrees (117° 0′) east of Greenwich, the latter point being on the boundary defined by the Treaty between the United States of America and Spain signed at Paris, December 10, 1898.

Article II

The line described above has been indicated on Charts Nos. 4707 and 4720, published by the United States Coast and Geodetic Survey, corrected to July 24, 1929, portions of both charts so marked being attached to this treaty and made a part thereof.[3] It is agreed that if more accurate surveying and mapping of North Bornéo, the Philippine Islands, and intervening islands shall in the future show that the line described above does not pass between Little Bakkungaan and Great Bakkungaan Islands, substantially as indicated on Chart No. 4720, the boundary line shall be understood to be defined in that area as a line passing between Little Bakkungaan and Great Bakkungaan Islands as indicated on the chart, said portion of the line being a straight line approximately 307° 40′ true drawn from a point on the parallel of 6° 0′ north latitude to a point on the meridian of longitude of 117° 58′ east of Greenwich.

It is likewise agreed that if more accurate surveying and mapping shall show that the line described above does not pass between the Mangsee Islands and Mangsee Great Reef as indicated on Chart No. 4720, the boundary shall be understood to be defined in that area as a straight line drawn from the intersection of the parallel of 7° 24′ 45″ north latitude and the meridian of longitude of 117° 25′ 30″ east of Greenwich, passing through Mangsee Channel as indicated on attached Chart No. 4720 to a point on the parallel of 7° 40′ north latitude.

Article III

All islands to the north and east of the said line and all islands and rocks traversed by the said line, should there be any such, shall belong to the Philippine Archipelago and all islands to the south and west of the said line shall belong to the State of North Borneo.

Article IV

The provisions of Article 19 of the Treaty between the United States of America, the British Empire, France, Italy, and Japan limiting naval armament, signed at Washington on February 6, 1922,[4] shall, so long as that

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[3] Not printed here.

[4] TS 671, *ante*, vol. 2, p. 351.

Treaty remains in force, apply in respect of all islands in the Turtle and Mangsee Groups which are or may be deemed to be comprised within the territories of the Philippine Archipelago on the one hand and of the State of North Borneo on the other hand in consequence of the establishment of the line fixed by the preceding articles of the present Convention. In the event of either High Contracting Party ceding, selling, leasing or transferring any of the islands in question to a third party provision shall be made for the continued application to such island of the aforementioned Article 19 of the Treaty between the United States of America, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington on February 6, 1922, provided that Treaty is still in force at the time of such cession, sale, lease or transfer.

ARTICLE V

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and shall come into force on the exchange of the acts of ratification which shall take place at Washington as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto their respective seals.

Done in duplicate at Washington the second day of January in the year of our Lord one thousand nine hundred and thirty.

HENRY L. STIMSON [SEAL]
ESME HOWARD [SEAL]

EXCHANGES OF NOTES

The British Ambassador to the Secretary of State

BRITISH EMBASSY,
Washington, D.C., 2nd January, 1930

No. 679

SIR,

By the convention concluded between the President of the United States of America and His Britannic Majesty for the purpose of delimiting the boundary between the Philippine archipelago on the one hand and the State of North Borneo which is under British protection on the other hand, the sovereignty over certain islands which have for many years past been administered by the British North Borneo Company has been definitely recognized as pertaining to the United States of America. These islands which formed the subject of the arrangement effected by an exchange of notes between His Majesty's Government and the United States Government on July 3rd and July 10th, 1907,[a] are:

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[a] TS 856, *ante*, p. 287.

1. Sibaung, Boaan, Lihiman, Langaan, Great Bakkungaan, Taganak, and Baguan in the group of islands known as the Turtle Islands.
2. The Mangsee Islands.

His Majesty's Government in the United Kingdom understand that the Government of the United States of America are prepared to conclude an arrangement in regard to these islands, supplementary to the above-mentioned convention, in the following terms:

FIRSTLY. That the said company be left undisturbed in the administration of the islands in question unless or until the United States Government give notice to His Majesty's Government of their desire that the administration of the islands should be transferred to them. The transfer of administration shall be effected within one year after such notice is given on a day and in a manner to be mutually arranged.

SECONDLY. That when the administration of any island is transferred in accordance with the foregoing the said Company will deliver to the United States Government all records relating to administration prior to the date of transfer.

THIRDLY. The United States of America shall not be responsible for the value of any buildings which have been or may be erected or other permanent improvements which have been or may be made in any island the administration of which is subject to transfer but any buildings or improvements erected or made by the administrative authorities prior to the transfer of administration may be removed provided the interests of the United States of America are not thereby injured. In the event, however, of the Island of Taganak being so transferred, the United States Government will give favourable consideration to the question of the compensation to be paid to the said company in respect of the capital expenditure incurred by the company in connection with the lighthouse situated on the island, and the United States Government will provide for the future maintenance of the lighthouse.

FOURTHLY. That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.

The United States Government, however, take note of the desire of His Majesty's Government that the following titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government.

PARTICULARS

Titles	Date of Alienation	Period	Approximate total Acreage
Boaan Island			
26 Native Titles	1. 6. 1907	In perpetuity	146 acres
Lihiman Island			
7 Native Titles	1. 6. 1907	" "	37 "
1 Provisional Lease 2416	1. 6. 1907	999 years	13 "
		Total	50 "
Langaan Island			
4 Native Titles	1. 6. 1907	In perpetuity	12 "
Great Bakkungaan			
3 Provisional Leases	26. 9. 1903	999 years	118 "

FIFTHLY. It is agreed that the United States Government shall be exempt from responsibility in respect of acts done in or from any of the islands in question the administration of which has not been transferred to the United States.

SIXTHLY. The stipulations of the extradition treaties between the United States Government and His Majesty's Government shall be applicable within the limits provided for in the exchange of notes which took place in Washington on September 1st/23rd, 1913,* to the islands in question and the United States Government take note of the importance which, in view of the proximity of the islands to North Borneo, the said company attach to the establishment and maintenance of an adequate police post thereon, in the event of the administration being transferred to the United States Government.

SEVENTHLY. In the event of the cession, sale, lease or transfer of the islands in question to any third party, the United States Government undertake to use their good offices in commending to the favourable consideration of such third party the desires expressed by His Majesty's Government in the United Kingdom and the British North Borneo Company, as set out in the preceding articles of the present arrangement.

I have the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to request you to be so good as to inform me whether the United States adhere to the terms of the arrangement above described and I shall be glad to receive an assurance from you at the time that this note will be considered by the United States Government as sufficient acceptance of the above arrangement on the part of His Majesty's Government in the United Kingdom.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

ESME HOWARD

The Honourable
HENRY L. STIMSON,
Secretary of State of the United States,
Washington, D.C.

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* TS 582, *ante*, p. 364.

The Secretary of State to the British Ambassador

DEPARTMENT OF STATE,
Washington, January 2, 1930

EXCELLENCY:

In Your Excellency's note of today's date you stated that His Majesty's Government in the United Kingdom understands that the Government of the United States of America is prepared to conclude an arrangement in the following terms regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States of America on July 3 and July 10, 1907:

[For terms of arrangement, see numbered paragraphs of U.K. note, above.]

In reply to the inquiry made on behalf of Your Excellency's Government in the last paragraph of your note of today's date, I take pleasure in informing you that the Government of the United States of America adheres to the terms of the arrangement above described, and in assuring you that your note under acknowledgment is considered by the Government of the United States of America as sufficient acceptance of the arrangement on the part of His Majesty's Government in the United Kingdom.

Accept, Excellency, the renewed assurances of my highest consideration.

HENRY L. STIMSON

His Excellency
The Right Honorable
Sir ESME HOWARD, *G.C.B., G.C.M.G., C.V.O.,*
Ambassador of Great Britain.

The British Ambassador to the Secretary of State

BRITISH EMBASSY,
No. 231 *Washington, D.C., July 6th, 1932*

SIR,

In the notes exchanged between the United States Government and His Majesty's Government in the United Kingdom on January 2nd, 1930, constituting an arrangement regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States of America on July 3 and July 10, 1907, the United States Government took note of the desire of His Majesty's Government that certain titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government.

2. His Majesty's Government regret that the following title was inadvertently omitted from those included in the above arrangement:

Libaran Island	*Date of Allienation*	*Period*	*Area*
Provisional Lease No. 2417	1.6.1907	999 yrs.	13 acres 0 roods 24 perches.

3. I have the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to request you to be so good as to inform me whether the United States Government will agree to regard this title as included in those mentioned in the arrangement concluded on January 2nd, 1930.

4. Should your Government agree to this extension of the above-mentioned arrangement, I should be glad to receive from you an assurance that this note will be considered by the United States Government as a sufficient confirmation thereof on the part of His Majesty's Government in the United Kingdom.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

R. C. Lindsay

The Honourable
Henry L. Stimson,
Secretary of State of the United States,
Washington, D.C.

The Secretary of State to the British Ambassador

Department of State,
Washington, July 6, 1932

Excellency:

I have the honor to acknowledge the receipt of Your Excellency's note of this day's date in which Your Excellency refers to the fact that in the notes exchanged between the Government of the United States of America and His Majesty's Government in the United Kingdom on January 2nd, 1930, constituting an arrangement regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States on July 3 and July 10, 1907, the Government of the United States took note of the desire of His Majesty's Government that certain titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government. In relation to this matter Your Excellency states that His Majesty's Government regrets that the following title was inadvertently omitted from the list of land titles included in the above arrangement:

Lihiman Island	*Date of Alienation*	*Period*	*Area*
Provisional Lease No. 2417	1.6.1907	999 years	13 acres 0 roods 24 perches

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs Your Excellency requests that I be so good as to inform you whether the Government [illegible] the United States will agree to regard this title as included in those mentioned in the arrangement concluded on January 2, 1930.

In reply I am pleased to inform Your Excellency that the Government of the United States agrees to the extension of the arrangement of January 2, 1930, to include the above-mentioned title, and I take pleasure also in assuring Your Excellency that your note under acknowledgement is considered by the Government of the United States as a sufficient confirmation on the part of His Majesty's Government in the United Kingdom of the aforesaid extension.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:
W. R. CASTLE, JR.

His Excellency
The Honorable Sir RONALD LINDSAY,
P.C., G.C.M.G., K.C.B., C.V.O.,
British Ambassador.

Annex MM 30

AGREEMENT FOR THE TRANSFER OF THE BORNEO SOVEREIGN RIGHTS AND ASSETS FROM THE BRITISH NORTH BORNEO COMPANY TO THE CROWN, JUNE 26, 1946

COLONIAL OFFICE

NORTH BORNEO

Agreement for the transfer of the Borneo Sovereign Rights and Assets from the British North Borneo Company to the Crown

26th June, 1946

LONDON
PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE
To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2; 13a Castle Street, Edinburgh 2;
39-41 King Street, Manchester 2; 1 St. Andrew's Crescent, Cardiff;
80 Chichester Street, Belfast;
or through any bookseller
1946
Price 3d. net

An Agreement. dated the twenty-sixth day of June, 1946, between HIS MAJESTY'S SECRETARY OF STATE FOR THE COLONIES on behalf of His Majesty (hereinafter referred to as " the Crown ") of the one part; and the BRITISH NORTH BORNEO COMPANY, incorporated by Royal Charter dated the 1st day of November, 1881, whose offices are situated at 80/82, High Street, Rickmansworth, in the county of Hertfordshire (hereinafter referred to as " the Company " which expression shall be deemed to include the Company's successors and assigns) of the other part.

Whereas by the several grants and commissions mentioned in the recitals to the said Charter, the interests powers and rights therein respectively mentioned over or in respect of the territories and lands therein respectively described (which territories and lands together with others hereinafter mentioned are now known as and are hereinafter referred to as " the State of North Borneo ") were granted, ceded, assured to or conferred upon the persons therein respectively named, and such persons were thereby nominated and appointed supreme rulers over the State of North Borneo with all the powers and rights usually exercised by and belonging to Sovereign rulers as in the said grants and commissions respectively mentioned:

And Whereas by certain instruments, including those set out in the First Schedule hereto, subsequent to the said Charter further interests, powers and rights over or in respect of the territories and lands respectively described in the said instruments were granted, ceded, assured to or conferred upon the Company:

And Whereas under and by virtue of the said Charter and subsequent instruments the Company became, and are now, entitled to the full benefit of the said grants, commissions and instruments and acquired, and now hold, use, enjoy and exercise, all the said interests, powers and rights therein respectively comprised (all of which are hereinafter referred to as " the Borneo Sovereign Rights "):

And Whereas by an Agreement dated the twelfth day of May, 1888, the State of North Borneo was placed under the protection of Her late Majesty Queen Victoria:

And Whereas the Company are the owners of certain movable and immovable property and assets which are within the State of North Borneo and are used by the Company for administrative and public purposes, and the expression " the Borneo Assets " wherever used herein shall mean all the said properties and assets as they exist on the fifteenth day of July, 1946 (hereinafter referred to as " the day of transfer ") and shall be construed as including all funds established by the Company in connection with its administration and public services of the State of North Borneo and all debts payable to the Company in respect of its administration and public services as aforesaid whether the same shall have accrued, or shall accrue, on, before, or after the day of transfer and whether such funds are held, or such debts are payable, in the State of North Borneo or elsewhere:

And Whereas it is considered desirable that the Crown should, in consideration of the payment to the Company of a sum by way of compensation, assume direct responsibility for the Government of the State of North Borneo and for that purpose acquire from the Company the Borneo Sovereign Rights and the Borneo Assets:

And Whereas by the terms of the said Charter the Company has not power to transfer wholly or in part the benefits of the grants and commissions aforesaid which the Company was thereby authorised and empowered to acquire or any of them except with the consent of one of His Majesty's principal Secretaries of State:

And Whereas the consent aforesaid of one of His Majesty's principal Secretaries of State has been given as is evidenced by these presents:

NOW IT IS HEREBY AGREED by and between the parties hereto as follows:—

1. The Company hereby transfers and cedes the Borneo Sovereign Rights to the Crown with effect from the day of transfer, to the intent that the Crown shall, as from the day of transfer, have full sovereign rights over, and title to, the territory of the State of North Borneo and that the said territory shall thereupon become part of His Majesty's dominions. Transfer of Borneo Sovereign Rights.

Provided that His Majesty shall from the date of execution of this Agreement have full power and authority to make provision for the Government of the said territory, such provision to take effect on or after the day of transfer.

Transfer of Borneo Assets.

2. As from the day of transfer the Borneo Assets are hereby transferred to and shall vest in the Crown, subject to and with the benefits of all grants, concessions, leases and other rights or interests in or over the said assets and vested in or possessed by third parties and subsisting on the day of transfer; and the property of the Company described in the Second Schedule hereto is hereby transferred to and shall vest in the Crown.

Transfer of liabilities.

3. The Crown shall, subject to the provisions of Clause 6 hereof, discharge and indemnify the Company against all obligations and liabilities properly incurred by the Company to any third party in the course of its administration or in respect of the public services of the State of North Borneo prior to the day of transfer, whether the same shall have accrued, or shall accrue, on, before or after the day of transfer, including specifically, but without prejudice to the generality of the foregoing:—

(1) all obligations and liabilities relating to the matters specified in the Third Schedule hereto;

(2) all obligations and liabilities under or in respect of all grants, concessions, leases and other rights or interests, subject to and with the benefit of which the Borneo Assets are by Clause 2 hereof expressed to have vested in the Crown;

(3) all obligations and liabilities under or in respect of grants and concessions mentioned in the recitals to the said Charter and subsequent instruments mentioned in the recitals hereto.

Provision for further assurance.

4. (1) On or after the day of transfer the Company, as and when requested by the Crown so to do, shall execute and do, at the cost and expense in all respects of the Crown, all such deeds, acts and things as may be necessary or convenient for effectually transferring to or vesting in the Crown the Borneo Sovereign Rights and the Borneo Assets as and in the condition in which they exist on that date, and the other property described in the Second Schedule hereto, and in particular shall formally assign to the Crown all debts outstanding on that date and comprised in the Borneo Assets.

(2) In so far as these presents are effectual to assign and transfer such debts the Company hereby assigns and transfers them to the Crown.

(3) If on or after the day of transfer any such debt be paid to the Company, the Company shall account for and pay any amounts so received to the Crown or as the Crown may direct.

Payment to the Company.

5. (1) In consideration of the premises, the Crown shall pay to the Company:—

(*a*) in respect of the Borneo Sovereign Rights and the Borneo Assets, the sum awarded in the Arbitration to be held in accordance with Clauses 10 and 11 hereof;

(*b*) in respect of the shares and debentures set out in the Second Schedule hereto, the sum of £5,000 on the day of transfer;

(*c*) in respect of the maps, plans, books and records set out in the Second Schedule hereto the sum of £1,000 on the day of transfer;

(2) The Crown shall pay to the Company the sum of £860,600 on the thirtieth day of December, 1946. In consideration of this payment, the Company shall take all steps necessary to redeem on or before the first day of January, 1947, all outstanding debentures issued by the Company and shall redeem such debentures accordingly. The said sum of £860,600 shall be deemed full or part satisfaction of the amount payable under sub-paragraph (*a*) of paragraph (1) of this clause, but whatever the sum awarded in the said Arbitration, the Company shall not be required to repay any part of the said sum of £860,600.

(3) The Crown shall pay to the Company interest at the rate of £2 10s. per centum per annum on the sum awarded in the said Arbitration as from the day of transfer down to the date of payment. Provided that on payment of the said sum of £860,600, interest shall thereafter be calculated and paid only on the amount by which the sum so awarded exceeds the said sum of £860,600.

Employees of the Company.

6. (1) All persons who immediately before the day of transfer are employed by the Company in the administrative or public services of the State of North Borneo shall, as between the Crown and the Company, be deemed to be in the employment of the Crown on and after that day and the Crown shall discharge and indemnify the Company against, and where necessary recoup to the Company, any payments properly made by the Company on or after that day in respect of:—

(*a*) all obligations and liabilities relating to the salary or emoluments payable to such persons (subject to paragraph (3) of this Clause) on or after that day;

(*b*) all obligations and liabilities arising out of any act or default of any such person done or omitted on or after that day;

(*c*) all obligations and liabilities in respect of any pension to which any such person or any dependant of any such person shall on or after that day become entitled.

(2) Subject to paragraph (3) of this clause, the Crown shall discharge and indemnify the Company against all obligations and liabilities in respect of any pensions or instalments of pensions falling to be paid on or after the day of transfer to any person who before that day ceased to be employed by the Company in the administrative or public services of the State of North Borneo or to the dependants of any such persons.

(3) The salaries and emoluments mentioned in sub-paragraph (a) of paragraph (1) of this Clause and the pensions mentioned in paragraph (2) of this Clause shall be apportioned in point of time as at the day preceding the day of transfer, and the Company warrants that it has paid or will pay all arrears of such salaries, emoluments and pensions due and the respective apportioned parts thereof accruing due before that day.

(4) For the purpose of this Clause the word " pension " shall mean all annuities, gratuities and other like payments payable under the superannuation regulations of the Company in force at or before the date of these presents, or otherwise.

(5) The Crown undertakes that all persons employed by the Company at the day of transfer in the administration or public services of the State of North Borneo shall retain all their rights existing at such day; and such rights shall in any case or cases in which the Company so requires be ascertained on the footing that no service contract was abrogated or dissolved by reason of the war of 1939-1945 or any event arising thereout. Any such person shall, at any time within six months of a date to be appointed by the Crown, be entitled at his election to retire from such administration or public service and in such case shall be entitled to receive from the Crown the pension which he would have been entitled to receive from the Company if his retirement had been from the employment of the Company in the administration or public service of the State of North Borneo and had been necessitated through ill health.

(6) Nothing in this Clause shall apply to any person employed by the Company outside the State of North Borneo and the Company shall remain liable to discharge all obligations and liabilities in respect of such persons.

7. Wherever in this Agreement the Crown undertakes to discharge any obligation or liability of the Company to any third party (including any employee of the Company) such undertaking shall be a covenant granted to the Company for its own benefit and for the benefit of each such third party; and the Crown will, at the request of the Company, enter into an agreement with any such third party or employee in such form and manner as the Company may reasonably require that the Crown will discharge such obligation or liability.

8. Nothing in this Agreement shall be taken to affect the principle that persons in the service of the Crown hold office at the pleasure of the Crown.

9. If the Crown are of opinion that any contract with respect to any matter, being a contract made by the Company after the 20th day of June, 1944, was not reasonably necessary in the course of its business and that liabilities arising thereunder ought not to be transferred to the Crown, the Crown may give notice in writing to the Company to that effect at any time within one year after the day of transfer, or within six months after the day upon which the provisions of such contract come to the knowledge of the Crown, whichever shall be the later. If the Crown give any such notice as aforesaid and any dispute, difference or question arising by reason of the notice is not disposed of by agreement between the Crown and the Company, the matter shall be referred to arbitration in accordance with Clause 12 hereof, and the Arbitrator shall consider whether or not the contract was reasonably necessary in the ordinary course of the business of the Company and determine whether and to what extent as between the Crown and the Company any obligation or liability arising thereunder is to be transferred to the Crown or is to continue as an obligation or liability of the Company.

10. (1) It shall be referred to the Award and final determination of an Arbitrator to decide what would be a fair sum by way of compensation to be paid by the Crown to the Company, having regard to the terms of this Agreement, for the Borneo Sovereign Rights and the Borneo Assets transferred to and vested in the Crown hereunder.

(2) The Arbitrator shall ascertain the fair price on the day of transfer on the basis of:

(a) the net maintainable revenue;

(b) the number of years purchase which, in the opinion of the Arbitrator, should be applied thereto.

The Arbitrator shall take as the net maintainable revenue of the Company the net annual revenue which the Company might reasonably have been expected to earn in the future if this Agreement had not been entered into.

(3) In making an award under this Clause the Arbitrator shall add nothing as compensation to the Company for any effect on the condition of the Borneo Assets of damage or deterioration consequent upon the war of 1939-45.

(4) The Arbitrator for the purpose of this clause shall be The Right Honourable Lord Uthwatt or, if he shall be unable or unwilling to act, a person appointed in the manner provided in Clause 12 hereof.

Arbitration procedure.

11. (1) The Arbitrator shall have power to obtain, call for, receive and act upon such oral or documentary evidence or information (whether the same be strictly admissible in evidence or not) as he may think fit, and in conducting the Arbitration he shall not be bound by the strict rules of procedure or evidence.

(2) The Arbitrator shall be entitled to summon to his assistance one or more persons of skill and experience who may be willing to sit with him and act as assessors.

(3) The Crown shall pay the costs of the Arbitration tribunal. Costs of the hearing shall be in the discretion of the Arbitrator.

(4) Subject as aforesaid, the provisions of the Arbitration Acts, 1889 to 1934, shall apply and the Arbitrator shall have all the powers conferred on Arbitrators by the said Acts.

General provision for Arbitration.

12. Subject to Clause 5 hereof if any dispute difference or question shall at any time hereafter arise between the parties hereto in respect of the construction of these presents or concerning anything herein contained or arising out of this Agreement, or as to the rights, liabilities or duties of the said parties hereunder, the same shall be referred to the arbitration of some person to be agreed upon by the said parties or, failing agreement, to be nominated by the Lord Chief Justice of England for the time being, or failing such nomination as the Law provides, in accordance with and subject to the provisions of the Arbitration Acts, 1889 to 1934, or any statutory variation modification or re-enactment thereof for the time being in force.

Validity of Company's Charter.

13. The entry by the Company into this Agreement shall not, nor shall any deed act or thing executed or done in pursuance of this Agreement, operate as a forfeiture or surrender of the said Charter or in any way affect or prejudice the validity thereof.

Costs of this Agreement.

14. The Crown shall on the execution of this Agreement pay to the Company all legal costs and expenses reasonably incurred by the Company in connection with the negotiation and preparation of this Agreement.

The Common Seal of the British North
Borneo Company was affixed hereto in
the presence of

SEAL

NEILL MALCOLM,
Major-General.
M. W. ELPHINSTONE,
Directors.

E. J. PHILLIPS, *Secretary.*

Signed by His Majesty's Secretary of State
for the Colonies
in the presence of

G. H. HALL.

G. H. GATER,
Permanent Under-Secretary of State.

THE FIRST SCHEDULE.

1. An Instrument, dated the 17th day of Mohurrum A.H. 1302 (the 5th day of November, 1884), whereby the Sultan of Brunei Pangeran Bendhara and Pangeran di Gadong ceded the territory from Si Putong to Kwala Paniow.

2. An Instrument, dated the 6th April, 1885, whereby the Sultan of Brunei confirmed the cession of the Island of Palawan.

3. An Instrument, dated the 2nd March, 1889, whereby Pangeran Shabandar ceded the territory of Padas Damit.

4. An Instrument, dated the 7th September, 1901, whereby the Sultan of Brunei ceded the territory between the Sepitong and Trusan Rivers.

5. An Instrument, dated the 22nd April, 1903, whereby the Sultan of Sulu confirmed the cession of certain islands.

THE SECOND SCHEDULE.

1. All maps, plans, books and records of historical or administrative interest owned by the Company relating to the State of North Borneo.

2. The Company's holding of:—

(a) 7469 shares at $5 each of Jesselton Ice and Power Co., Ltd.

(b) $2060 Debentures of Sandakan Golf Club.

(c) $5500 Debentures of Sandakan Club.

THE THIRD SCHEDULE.

1. Bills payable by, and deposits and other accounts with, the departments of the Company known as the Treasury and the State Bank.

2. The Treasury note issue and token coins in circulation.

3. Claims (involving liability either legally enforceable or accepted by the Crown) made by persons, firms or corporations residing or carrying on business in the State of North Borneo in respect of loss, injury or damage to person or property which has been occasioned by the war of 1939 to 1945.

Annex MM 31

AGREEMENT RELATING TO MALAYSIA,
JULY 9, 1963

AGREEMENT RELATING TO MALAYSIA

The Federation of Malaya, the United Kingdom of Great Britain and Northern Ireland, North Borneo, Sarawak and Singapore;

Desiring to conclude an agreement relating to Malaysia;

Agree as follows:—

ARTICLE I

The Colonies of North Borneo and Sarawak and the State of Singapore shall be federated with the existing States of the Federation of Malaya as the States of Sabah, Sarawak and Singapore in accordance with the constitutional instruments annexed to this Agreement and the Federation shall thereafter be called "Malaysia".

ARTICLE II

The Government of the Federation of Malaya will take such steps as may be appropriate and available to them to secure the enactment by the Parliament of the Federation of Malaya of an Act in the form set out in Annex A to this Agreement and that it is brought into operation on 31st August, 1963 (and the date on which the said Act is brought into operation is hereinafter referred to as "Malaysia Day").

ARTICLE III

The Government of the United Kingdom will submit to Her Britannic Majesty before Malaysia Day Orders in Council for the purpose of giving the force of law to the Constitutions of Sabah, Sarawak and Singapore as States of Malaysia which are set out in Annexes B, C and D to this Agreement.

ARTICLE IV

The Government of the United Kingdom will take such steps as may be appropriate and available to them to secure the enactment by the Parliament of the United Kingdom of an Act providing for the relinquishment, as from Malaysia Day, of Her Britannic Majesty's sovereignty and jurisdiction in respect of North Borneo, Sarawak and Singapore so that the said sovereignty and jurisdiction shall on such relinquishment vest in accordance with this Agreement and the constitutional instruments annexed to this Agreement.

ARTICLE V

The Government of the Federation of Malaya will take such steps as may be appropriate and available to them to secure the enactment before Malaysia Day by the Parliament of the Federation of Malaya of an Act in the form set out in Annex E to this Agreement for the purpose of extending and adapting the Immigration Ordinance, 1959, of the Federation of Malaya to Malaysia and of making additional provision with respect to entry into the States of Sabah and Sarawak; and the other provisions of this Agreement shall be conditional upon the enactment of the said Act.

ARTICLE VI

The Agreement on External Defence and Mutual Assistance between the Government of the Federation of Malaya and the Government of the United Kingdom of 12th October, 1957, and its annexes shall apply to all territories of Malaysia, and any reference in that Agreement to the Federation of Malaya shall be deemed to apply to Malaysia, subject to the proviso that the Government of Malaysia will afford to the Government of the United Kingdom the right to continue to maintain the bases and other facilities at present occupied by their Service authorities within the State of Singapore and will permit the Government of the United Kingdom to make such use of these bases and facilities as that Government may consider necessary for the purpose of assisting in the defence of Malaysia, and for Commonwealth defence and for the preservation of peace in South-East Asia. The application of the said Agreement shall be subject to the provisions of Annex F to this Agreement (relating primarily to Service lands in Singapore).

ARTICLE VII

(1) The Federation of Malaya agrees that Her Britannic Majesty may make before Malaysia Day Orders in Council in the form set out in Annex G to this Agreement for the purpose of making provision for the payment of compensation and retirement benefits to certain overseas officers serving, immediately before Malaysia Day, in the public service of the Colony of North Borneo or the Colony of Sarawak.

(2) On or as soon as practicable after Malaysia Day, Public Officers Agreements in the forms set out in Annexes H and I of this Agreement shall be signed on behalf of the Government of the United Kingdom and the Government of Malaysia; and the Government of Malaysia shall obtain the concurrence of the Government of the State of Sabah, Sarawak or Singapore, as the case may require, to the signature of the Agreement by the Government of Malaysia so far as its terms may affect the responsibilities or interests of the Government of the State.

ARTICLE VIII

The Governments of the Federation of Malaya, North Borneo and Sarawak will take such legislative, executive or other action as may be required to implement the assurances, undertakings and recommendations contained in Chapter 3 of, and Annexes A and B to, the Report of the Inter-Governmental Committee signed on 27th February, 1963, in so far as they are not implemented by express provision of the Constitution of Malaysia.

ARTICLE IX

The provisions of Annex J to this Agreement relating to Common Market and financial arrangements shall constitute an Agreement between the Government of the Federation of Malaya and the Government of Singapore.

ARTICLE X

The Governments of the Federation of Malaya and of Singapore will take such legislative, executive or other action as may be required to implement the arrangements with respect to broadcasting and television set out in Annex K to this Agreement in so far as they are not implemented by express provision of the Constitution of Malaysia.

ARTICLE XI

This Agreement shall be signed in the English and Malay languages except that the Annexes shall be in the English language only. In case of doubt the English text of the Agreement shall prevail.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at London, this 9th day of July, 1963, in five copies of which one shall be deposited with each of the Parties.

For the United Kingdom:
HAROLD MACMILLAN
DUNCAN SANDYS
LANSDOWNE

For the Federation of Malaya:
T. A. RAHMAN
ABDUL RAZAK
TAN SIEW SIN
V. T. SAMBANTHAN
ONG YOKE LIN
S. A. LIM

For North Borneo:
DATU MUSTAPHA BIN DATU HARUN
D. A. STEPHENS
W. K. H. JONES
KHOO SIAK CHIEW
W. S. HOLLEY
G. S. SUNDANG

For Sarawak:
P. E. H. PIKE
T. JUGAH
ABANG HAJI MUSTAPHA
LING BENG SIEW
ABANG HAJI OPENG

For Singapore:
LEE KUAN YEW
GOH KENG SWEE

Annex MM 32

AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA RELATING TO THE DELIMITATION OF THE CONTINENTAL SHELVES BETWEEN THE TWO COUNTRIES,

OCTOBER 27, 1969

AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA RELATING TO THE DELIMITATION OF THE CONTINENTAL SHELVES BETWEEN THE TWO COUNTRIES

THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA,

DESIRING to strengthen the existing historical bonds of friendship between the two Countries,

AND DESIRING to establish the boundaries of the continental shelves between the two Countries,

HAVE AGREED AS FOLLOWS:

ARTICLE I

(1) The boundaries of the Malaysian and the Indonesian continental shelves in the Straits of Malacca and the South China Sea are the straight lines connecting the points specified in column 1 below whose co-ordinates are specified opposite those points in columns 2 and 3 below:-

A. In the Straits of Malacca:

(1) Point	(2) Longitude E	(3) Latitude N
1.	98° 17'.5	05° 27'.0
2.	98° 41'.5	04° 55'.7
3.	99° 43'.6	03° 59'.6
4.	99° 55'.0	03° 47'.4
5.	101° 12'.1	02° 41'.5
6.	101° 46'.5	02° 15'.4
7.	102° 13'.4	01° 55'.2
8.	102° 35'.0	01° 41'.2
9.	103° 03'.9	01° 19'.5
10.	103° 22'.8	01° 15'.0

B. In the South China Sea (Western Side - Off the East Coast of West Malaysia):

(1) Point	(2) Longitude E	(3) Latitude N
11.	104° 29'.5	01° 23'.9
12.	104° 53'.0	01° 38'.0
13.	105° 05'.2	01° 54'.4

14.	105° 01'. 2	02° 22'. 5
15.	104° 51'. 5	02° 55'. 2
16.	104° 46'. 5	03° 50'. 1
17.	104° 51'. 9	04° 03'. 0
18.	105° 28'. 8	05° 04'. 7
19.	105° 47'. 1	05° 40'. 6
20.	105° 49'. 2	06° 05'. 8

C. In the South China Sea (Eastern Side - Off the Coast of Sarawak):

(1) Point	(2) Longitude E	(3) Latitude N
21.	109° 38'. 8	02° 05'. 0
22.	109° 54'. 5	03° 00'. 0
23.	110° 02'. 0	04° 40'. 0
24.	109° 59'. 0	05° 31'. 2
25.	109° 38'. 6	06° 18'. 2

(2) The co-ordinates of the points specified in paragraph (1) are geographical co-ordinates and the straight lines connecting them are indicated on the chart attached as Annexure 'A' to this Agreement.

(3) The actual location of the abovementioned points at sea shall be determined by a method to be mutually agreed upon by the competent authorities of the two Governments.

(4) For the purposes of paragraph (3) "competent authorities" in relation to Malaysia means the Pengarah, Pemetaan Negara, Malaysia and includes any person authorised by him and in relation to the Republic of Indonesia the Direktur, Direktorat Hidrografi Angkatan Laut, Republik Indonesia and includes any person authorised by him.

ARTICLE II

Each Government hereby undertakes to ensure that all the necessary steps shall be taken at the domestic level to comply with the terms of this Agreement.

ARTICLE III

This Agreement shall not in any way affect any future agreement which may be entered into between the two

Governments relating to the delimitation of the territorial sea boundaries between the two Countries.

ARTICLE IV

If any single geological petroleum or natural gas structure extends across the straight lines referred to in Article I and the part of such structure which is situated on one side of the said lines is exploitable, wholly or in part, from the other side of the said lines, the two Governments will seek to reach agreement as to the manner in which the structure shall be most effectively exploited.

ARTICLE V

Any dispute between the two Governments arising out of the interpretation or implementation of this Agreement shall be settled peacefully by consultation or negotiation.

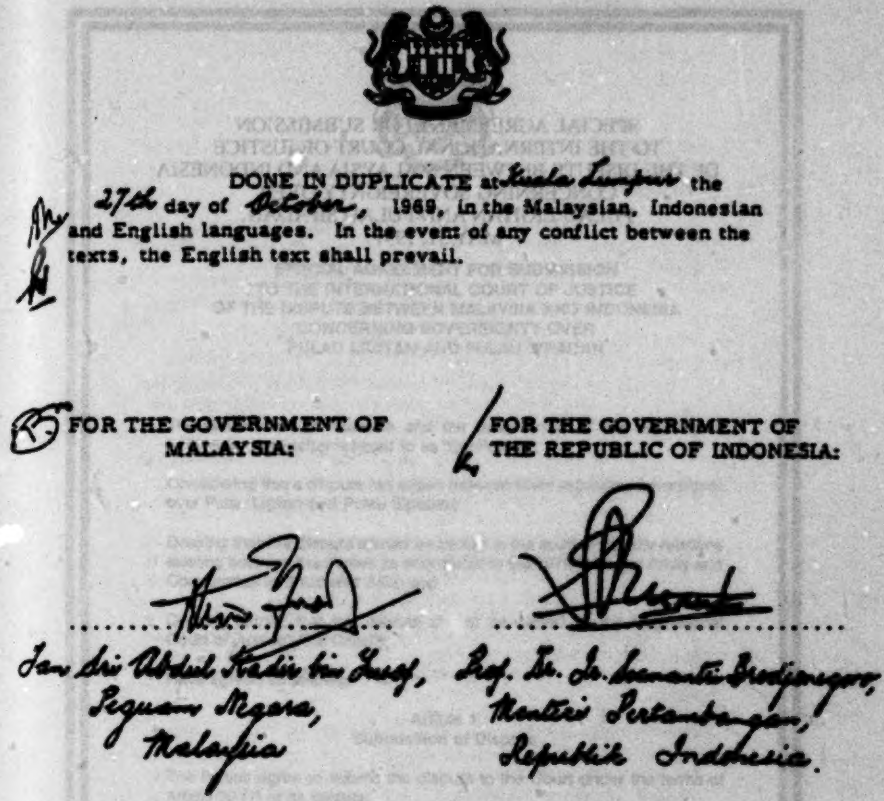
ARTICLE VI

This Agreement shall be ratified in accordance with the constitutional requirements of the two Countries.

ARTICLE VII

This Agreement shall enter into force on the date of the exchange of the Instruments of Ratification.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.



DONE IN DUPLICATE at Kuala Lumpur the 27th day of October, 1969, in the Malaysian, Indonesian and English languages. In the event of any conflict between the texts, the English text shall prevail.

FOR THE GOVERNMENT OF
MALAYSIA:

....
Tan Sri Abdul Kadir bin Yusof,
Peguam Negara,
Malaysia

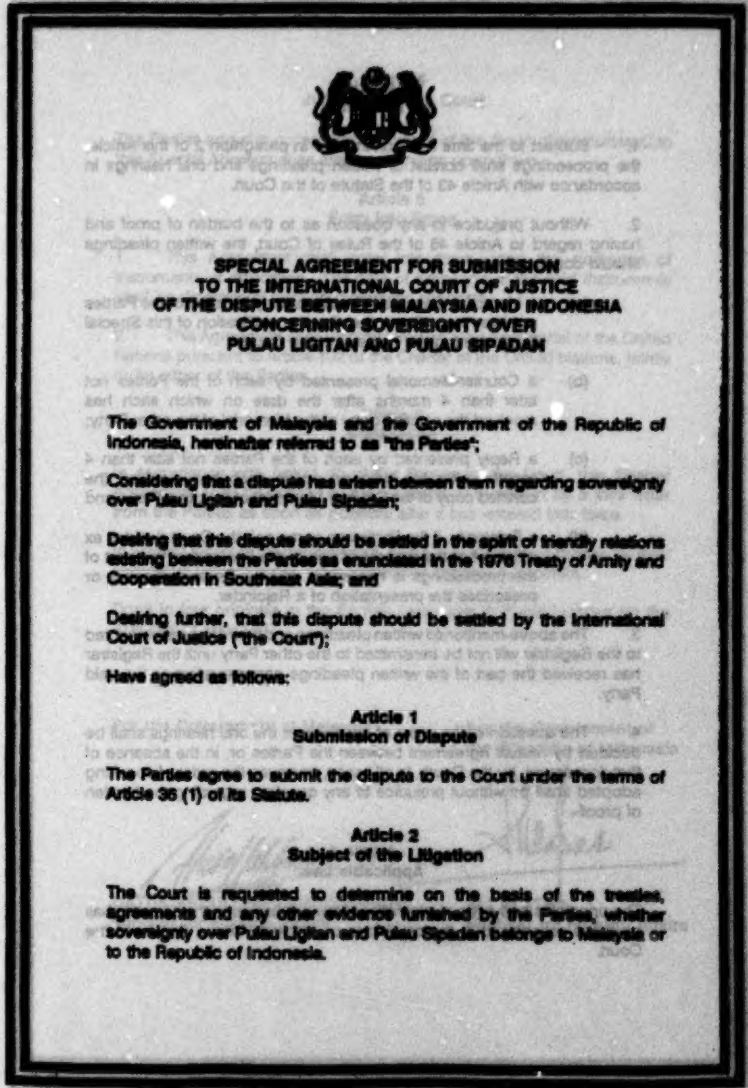
FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA:

....
Prof. Dr. Ir. Soemantri Brodjonegoro,
Menteri Pertambangan,
Republik Indonesia.

Annex MM 33

SPECIAL AGREEMENT FOR SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE OF THE DISPUTE BETWEEN MALAYSIA AND INDONESIA CONCERNING SOVEREIGNTY OVER PULAU LIGITAN AND PULAU SIPADAN,

MAY 31, 1997



SPECIAL AGREEMENT FOR SUBMISSION TO THE INTERNATIONAL COURT OF JUSTICE OF THE DISPUTE BETWEEN MALAYSIA AND INDONESIA CONCERNING SOVEREIGNTY OVER PULAU LIGITAN AND PULAU SIPADAN

The Government of Malaysia and the Government of the Republic of Indonesia, hereinafter referred to as "the Parties";

Considering that a dispute has arisen between them regarding sovereignty over Pulau Ligitan and Pulau Sipadan;

Desiring that this dispute should be settled in the spirit of friendly relations existing between the Parties as enunciated in the 1976 Treaty of Amity and Cooperation in Southeast Asia; and

Desiring further, that this dispute should be settled by the International Court of Justice ("the Court");

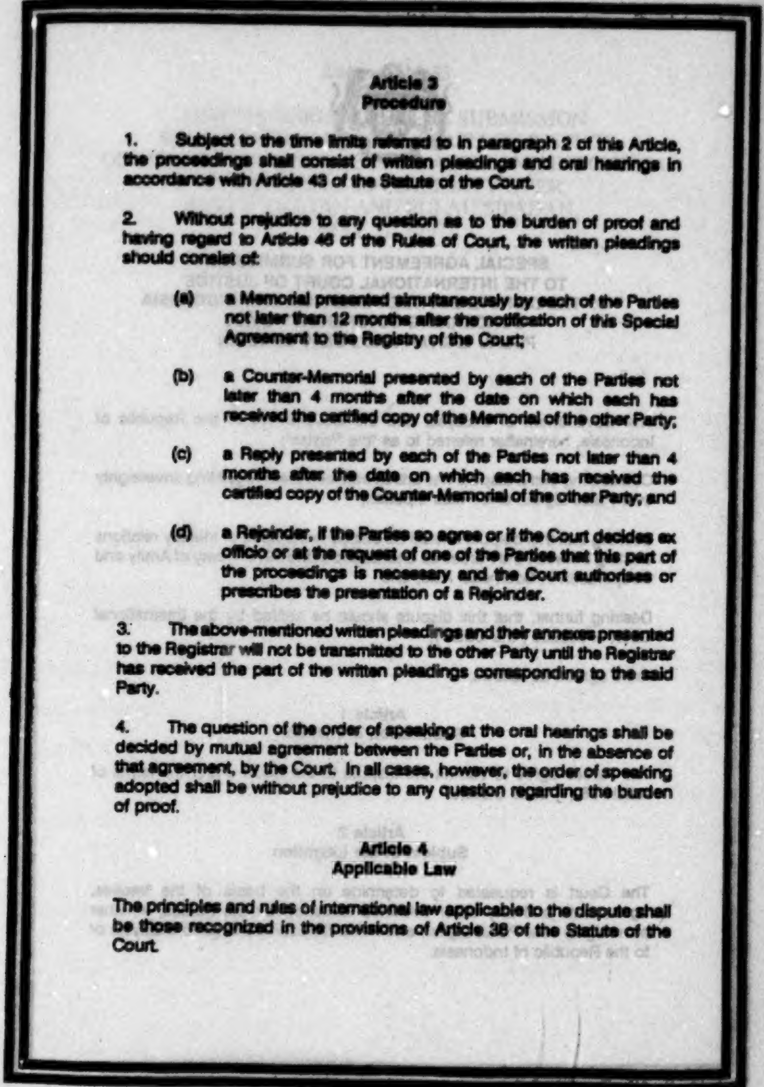
Have agreed as follows:

Article 1
Submission of Dispute

The Parties agree to submit the dispute to the Court under the terms of Article 36 (1) of its Statute.

Article 2
Subject of the Litigation

The Court is requested to determine on the basis of the treaties, agreements and any other evidence furnished by the Parties, whether sovereignty over Pulau Ligitan and Pulau Sipadan belongs to Malaysia or to the Republic of Indonesia.



Article 3
Procedure

1. Subject to the time limits referred to in paragraph 2 of this Article, the proceedings shall consist of written pleadings and oral hearings in accordance with Article 43 of the Statute of the Court.

2. Without prejudice to any question as to the burden of proof and having regard to Article 46 of the Rules of Court, the written pleadings should consist of:

(a) a Memorial presented simultaneously by each of the Parties not later than 12 months after the notification of this Special Agreement to the Registry of the Court;

(b) a Counter-Memorial presented by each of the Parties not later than 4 months after the date on which each has received the certified copy of the Memorial of the other Party;

(c) a Reply presented by each of the Parties not later than 4 months after the date on which each has received the certified copy of the Counter-Memorial of the other Party; and

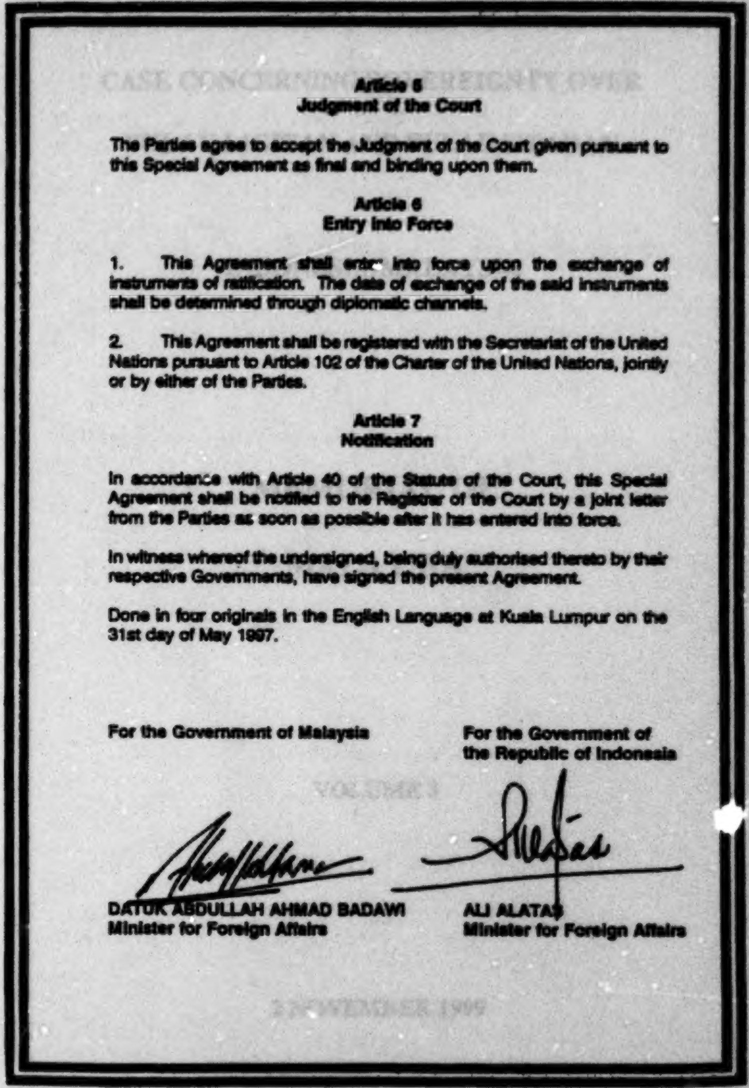
(d) a Rejoinder, if the Parties so agree or if the Court decides ex officio or at the request of one of the Parties that this part of the proceedings is necessary and the Court authorises or prescribes the presentation of a Rejoinder.

3. The above-mentioned written pleadings and their annexes presented to the Registrar will not be transmitted to the other Party until the Registrar has received the part of the written pleadings corresponding to the said Party.

4. The question of the order of speaking at the oral hearings shall be decided by mutual agreement between the Parties or, in the absence of that agreement, by the Court. In all cases, however, the order of speaking adopted shall be without prejudice to any question regarding the burden of proof.

Article 4
Applicable Law

The principles and rules of international law applicable to the dispute shall be those recognized in the provisions of Article 38 of the Statute of the Court.



Article 5
Judgment of the Court

The Parties agree to accept the Judgment of the Court given pursuant to this Special Agreement as final and binding upon them.

Article 6
Entry into Force

1. This Agreement shall enter into force upon the exchange of instruments of ratification. The date of exchange of the said instruments shall be determined through diplomatic channels.

2. This Agreement shall be registered with the Secretariat of the United Nations pursuant to Article 102 of the Charter of the United Nations, jointly or by either of the Parties.

Article 7
Notification

In accordance with Article 40 of the Statute of the Court, this Special Agreement shall be notified to the Registrar of the Court by a joint letter from the Parties as soon as possible after it has entered into force.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

Done in four originals in the English Language at Kuala Lumpur on the 31st day of May 1997.

For the Government of Malaysia	For the Government of the Republic of Indonesia
DATUK ABDULLAH AHMAD BADAWI Minister for Foreign Affairs	**ALI ALATAS** Minister for Foreign Affairs

CASE CONCERNING SOVEREIGNTY OVER
PULAU LIGITAN AND PULAU SIPADAN

INDONESIA/MALAYSIA

MEMORIAL OF
MALAYSIA

VOLUME 3

2 NOVEMBER 1999

Annex MM 34

JAMES HUNT, "SOME PARTICULARS RELATING TO SULO", IN THE ARCHIPELAGO OF FELICIA (1837)

NOTICES

OF THE

INDIAN ARCHIPELAGO,

AND ADJACENT COUNTRIES;

BEING A COLLECTION OF PAPERS RELATING TO BORNEO,
CELEBES, BALI, JAVA, SUMATRA, NIAS, THE PHILIPPINE ISLANDS, SULUS,
SIAM, COCHIN CHINA, MALAYAN PENINSULA, &c.

ACCOMPANIED BY AN INDEX AND SIX MAPS, VIZ.

1. THE TOWN AND SUBURBS OF SINGAPORE. 2. THE INDIAN
ARCHIPELAGO, INCLUDING SIAM AND COCHIN-CHINA. 3. RIVER COTI IN BORNEO. 4. MALACCA AND
NANING. 5. CHART OF SINGAPORE STRAIT &c. 6. PENANG AND PROVINCE WELLESLEY.

BY J. H. MOOR,
For some time Editor of the Malacca Observer, Singapore Chronicle,
and Singapore Free Press.

Part First.
PRICE, TO SUBSCRIBERS 6 DRS. TO NON-SUBSCRIBERS 8 DRS.

SINGAPORE:
1837.

SOME PARTICULARS RELATING TO SULO, IN THE ARCHIPELAGO OF FELICIA, BY J. HUNT Esq.

THE Sulo Archipelago (called by the Spaniards the Archipelago of Felicia,) consists of an immense number of islands lying in a north east and south west direction, the principal of which is called Sulo, from its capital town (also named *Sug*) the residence of the sultan, on the north west part; its length from east to west is about ten leagues, its breadth twelve miles and its circumference ninety-six.

This island was originally called by the natives Banjar Kulan or the little Banjar, the present inhabitants having originally emigrated from Banjar Masing on Borneo, and was, for a considerable time, subject to that empire: the name of Sulo, or, as the inhabitants pronounce it, Solok, was given it by Sayed Alli from Mecca, perhaps from its having been so designated in the most ancient charts of the Chinese empire, and hence if its etymology might be examined, I conjecture it to be from *Su*, an island (in the Chinese language) and *Lao*; or the island of the Laos.

There are few landscapes in the world, that exhibit a more delightful appearance than he sea coasts of Sulo; the luxuriant figure of the enchanting hills exhibit a rich scenery hardy ever equalled, and certainly never surpassed by the pencil of the artist. Some with majestic woods that wave their lofty heads to the very summits; others with rich pasturage delightfully verdant, with here and there patches burnt for cultivation, which form an agreeable contrast with the enamelled meads; others again exhibit cultivation to the mountain top, chequered with groves affording a greatful variety to the eye: in a word, it only requires the country-seats, churches, steeples, ancient castles, and the decorations of art and civilized life, to form a terrestial paradise; the miserable huts of the Sulos destroy that harmony of effect, which the blooming beauties of nature so temptingly solicit from the hand of man.

The wet season is from May till September, and the dry from October to April. The prevailing winds are strong gales from the westward in June and July; in August and September the southerly winds blow, and sometimes in prodigious hard gales, which we experienced in 1814 in Sulos roads In December and January strong northerly gales, with a heavy sea, are experienced in Sulo roads; the rest of the year is subject to light winds, calms, and variable airs inclining to the south west, during the wet, and to the north east, during the dry season. The greatest height of the thermometer from March to September was 87°; its greatest depression 75°, which was generally early in the mornings.

This island, it is said, was generally peopled with Papuans, in a state of savage nature, who even at this day inhabit some of the mountains of the interior. The Chinese were, from time immemorial, in the habit of trading to these isles for pearls, but the first people that shed any rays of civilization among them, were the orang Dampuwan (or, as the Chinese call them, Sonpotualan;) they governed the sea-coasts, built towns, planted grain, opened the rivers. They however found the aborigines such a faithless race, that they at length abandoned it, and indeed during their sojourn, knocked as many on the head as they could come at. At length, the fame of their submarine riches reached the chiefs of Banjar, who opened a communication with them; they at length planted a colony there, sending over immense numbers of settlers and with a view to conciliate the faithless possessors of this rich isle, a *putri* of exquisite beauty was sent and married to the principal chief, from which alliance have sprung all the subsequent sovereigns that have governed Sulo: by this treaty of marriage, the island became tributary to the Benjarmasing empire.

Among the improvements introduced by the Banjar people, are particularly enumerated, the elephant, the teak tree, and the cinnamon; the place becoming a delightful spot with considerable commercial advantages, attracted a number of settlers from Borneo and the southern isles of the Philipines, and they managed to drive the race of Papuans to the almost inaccessible hills for shelter and concealment, in which state of constraint, their numbers must have sensibly diminished.

Their history contains such a mass of fables, that even had it been possible to procure a copy, little advantage, in a historical point of view, could have been derived from it: I shall only mention such parts of it, as I recollect, which can be any wise interesting. The sultan of Magindanao informed me, it was conquered by his forefather, and in the days of their splendor, was also tributary to their empire. The arrival of the Chinese emperor Songtiping, with all his numerous retinue and subjects, and settling on the northern parts of *Borneo*, gave that empire a weighty preponderance in these seas: A. D. 1375. The daughter of Songtiping was married to a celebrated chief of Arabia, who visited these shores in quest of commerce, named Sherif Alli. Their son and grandson, in their subsequent reigns, were particularly successful, in extending their conquests: the latter, named Mirhome Fanbang de Budak, conquered not only the whole of the Philipines, but likewise rendered the Sulo empire tributary to Borneo proper. Three reigns after this, the sultan of Borneo proper, named Nakoda Rogam, married the daughter of the chief of Sulo, named Putri Mirancheni; the fruit of this marriage was Mirhome Bongsu, who succeeded to the throne while yet an infant and while his uncle Pangeran de Gadong was regent. Sulo, at this period, was populous, strong and commercial, and felt desirous by taking advantage of this young prince's minority, not only of shaking off its dependence upon the Bornean empire, but of enlarging its dominion at the expense of the hitherto governing state. The regent too, wishing to usurp the throne, and finding his own chiefs hostile to his ambitious views, sent an embassy to Sulo, demanding assistance from that state, in fixing him upon the throne, and in payment for the stipulated aid, promised them the entire sovereignty not only of all the isles comprising the Sulo Government [illegible] the whole of the north of Borneo, from [illegible] Straits of Macassar; which formed the limits of their monarchy on the great island of Borneo. The Sulus afforded the stipulated aid, but without effecting the required object. The Pangeran de Gadong, having been surprized by the partisans of the lawful prince on Pulo Cherimin, was put to death with most of his followers. The Sulos escaped without any material loss, but having been at a great expense in this undertaking, and feeling their power at a distance from the capital, [illegible] from Malude Bay to Teluyan, [illegible] by virtue of conquest.

The first chief that assumed the title of sultan, was Kamaludin; this was before Islamism was introduced into Sulo; at this period, whether the Sulos were of the Hindu persuasion like the Javanese, or were idolaters like the Dayaks, is a point on which I could derive no certain information. But I believe the people on the sea coasts, with the prince and chiefs were Budhists; and the *orang-dusun* and mountaineers, pagans. Before the decease of the abovementioned prince, there arrived at Sulo a merchant from Mecca; he was a Sherif, named Sayed Alli; he converted one half of the islanders, the Budhists, to his own faith, the other half still remained cafirs; he was elected sultan, reigned seven years, and died at Sulo. So celebrated was the first teacher of Mahomed's doctrine, that his tomb rendered the spot the Mecca of the east, and a thousand fables are related of the miracles performed by it. The Spaniards, on their arrival in these seas, destroyed the tomb as preparatory to the introduction of their own faith. The Sherif left a son, named *Batua*; who succeeded to the throne. Batua had two sons; the eldest named Mahomed Sabudin; the youngest Nasarudin. When Batua died, *Sabudin* succeeded him and made war on Nasarudin; the latter ran to Tawi Tawi, where he established himself, and built a large fort of piles. He reigned at the latter isle seven years, and had borne him two sons; the eldest Amir-ul-momin, the youngest Dato Bantilan. The Tawi Tawi chief at length compromised matters with his brother at Sulo, both agreeing to reign together at Sulo. They divided the empire between them, half and half. Amir-ul momin, when he grew up, was by both brothers confirmed the successor to the empire, and on their deaths ascended the throne: during this prince's reign another Sherif arrived from Mecca, named Sayed *Barpaki*; he succeeded in converting almost the whole population to Islamism. Jealousies sprung up between the brothers, and the sultan Amir made war on his brother Bantilan. The civil distractions lasted about five years, and the reigning sultan Amir, being conquered, was compelled to fly to Basilan, his brother *Bantilan* becoming sultan of Sulo. Ever since the arrival of the Spaniards (1565) at the Philippines a desultory war had been waged by them against the Sulos; but in the year 1646 on the 14th of April, peace was concluded between them at the mediation of the king of *Magindanao*, upon which the Spaniards withdrew from Sulo, which they had conquered and on which they had built the present fort, reserving to themselves the sovereignty of some of the other islands; the Sulos agreed at the same time to give, in sign of peace and brotherhood, a tribute of three vessels of rice annually.

The deposed prince that had fled to Basilan, entered into a secret correspondence with the Spaniards at *Sambangan*, who, after two years of his exile, sent a ship from *Manilla*, and carried away sultan Amir-ul-momin to *Manilla*. About five years after the departure, of the sultan to the capital of the Philippines, an English ship arrived at Sulo, with a Madras civilian, named Alexander Dalrymple (on board the Cuddalore, Capt. Baker, June 1759) He remained three months at the island, in completing his sales and purchases; to him the sultan Dato Bantilan communicated his grief regarding the confinement of his brother by the Spaniards. He told him, that Amir's family had been left behind, and that his wife had been left behind, and that his wife had been delivered of twins, a son and a daughter, both begotten by Amir before he was kidnapped by the Spaniards, and that the boy was called *Mahomed Israel*. Dalrymple consoled him by assuring him, he pledged himself to restore him his brother from *Manilla*. At this time a commercial treaty was concluded by Dalrymple between the Honorable East India Company, and the Sulo chiefs, by which it was stipulated, "That an annual cargo should be sent from Madras to Sulo, which the natives agreed to receive at a hundred per cent profit, and that they would provide a cargo in readiness, fit for the China market, which should realize an equal profit there; after deducting all expenses, all overplus to be carried to the credit of the Sulos." After this Dalrymple sailed, but did not reach Madras till after three years from his first outset in the Winchelsea, April 22, 1759.

Six months after Dalrymple's departure, a fleet of Spanish ships consisting of two large and forty small craft, with about two thousand Christians, arrived before Sulo, accompanied by sultan Amir. The Castilians commenced warlike operations against Sulo, which lasted seven days, but were repulsed at every point, on which they returned with disgrace to Manilla. They lost about a thousand men (this account is from the Sulos) but on the part of the Sulus one only was killed. About two years after this attempt, they came again with five large vessels and eighty smaller craft, having on board ten thousand men, commencing warlike operations without ceasing; they failed in carrying the fort of Sulo, but got possession of a port called Tanjong Matunda, where they were enabled to make a stand: they then erected a church and wooden fort. Here they established a colony, and their governor was named *Campas*. About fifteen days after this conquest, the people both old and young, of both sexes, became uneasy, and all in a body fled to the woods as far as the mountain *Dato*: on this, an innumerable host of inhabitants of the mountains, a species of negro, descended, the chief of whom was called *Sri Kala*: he had a follower by name *Sigalo* who offered to lead the men to battle against the Castilians however numerous they might be, and never to retreat an inch. The Tamangong Sri Kala accepted the offers of Sigalo and they determined to march together; desiring the rest of the mountaineers to be in readiness and to await the signal, & if they found all was quiet, to enter the fort en masse. The Tamangong Sri Kala and Sigalo had with them a young woman of exquisite beauty, named Purmessuri, with a view to cover their designs, and deceive the unwary and lustful Spaniards, as to their real object in entering the fortress. The Tumongong told Sigala, that the day being *jumat* and the hour then very propitious, he thought the attempt ought that instant to be made; the three persons then entered and whilst cajoling the guard, the signal was given. The mountaineers rushed in with their arms and murdered every Castilian without regard to sex or age, until the dead corpses laid in heaps in the court before the fortress, and those that then escaped the massacre returned with precipitation to their ships and set sail. About three days afterwards they landed at a cape called Tuckliby, attacked the place, and made themselves masters of it, built a fortification of wood, and held it about fifteen days, when the inhabitants and mountaineers rose in a great body and drove the Castilians from Tuckliby with great slaughter. Of those who escaped, some fled inland and were subsequently murdered or enslaved; the remainder immediately set sail for Manilla.

Some time after this, the Paduka Sri sultan Bantilan died, and his son Mahomed Alim-ud-deen ascended the musnud and was proclaimed sultan. After a lapse of time, Mr. A. Dalrymple arrived again (June 1762.) as commander of the London packet, with a cargo in conformity to the stipulated treaty: it turned out however unfortunately; this was consigned to the Indiaman that followed with the bulk of the cargo, not being able to find Sulo, who went on with it to China, from whence it arrived at Sulo via Manilla; the captain that brought it gave it on credit to the chiefs, before they had paid the first debt. On his arrival, Mr. D. found the small pox had swept away many of the principal inhabitants, and dispersed the rest, so that very ineffectual measures had been taken for providing the China cargo, and to this disappointment was added that of the death of sultan *Bundahara* (by the Sulo account, *Bantilan*;) these accidents frustrated all hopes of profit, but did not prevent Mr. D. from obtaining a grant for the Company of the island of Balambangan, of which he took possession in January 1763 on his return to Madras. Dalrymple enquired of the reigning sultan, what had become of his dear friend the sultan Bantilan: Mahomed replied, that the late sultan, his father, had died about a year before. D. was very much affected at this intelligence and expressed great grief, that circumstances had prevented his fulfilling his promise with the late sultan and obliged him to postpone bringing back his brother the sultan Amir from Manilla; but he said, he was going with six ships to that port and should the English succeed in their operations, he should soon return with the sultan. Mahomed upon this professed great friendship for D. and offered to accompany him, but which proposal was not accepted.

On the 6th October, 1763, the English carried the fortress of Manilla, where Dalrymple found sultan Amir and agreed to reinstate him on the throne of his ancestors; he ceding the north end of Borneo and the south end of Palawan and the intermediate islands, which was accordingly agreed to, and Dalrymple brought Amir to Sulo, where he was reinstated on the throne of his ancestors seven days after his arrival, with the highest acclamations of the people, and with the entire consent and approbation of Mahomed Alim-ud-deen and his Ruma Bechara; the former having with his hand and seal not only surrendered the throne to his uncle, but ratified the treaty of cession to the East India Company. The English account is, Dalrymple sailed from Madras for Sulo, China and Europe, in July 1763; on the 7th Sept. he arrived at Sulo, and during his stay there, obtained a grant for the East India Company of the Sulo possessions on Borneo, from Kimanis to Tapeandurian, with the south end of Palawan, and all the intermediate islands: having visited Manilla and Balambangan, he sailed for China and arrived in England in July 1765; to confer with the Court of Directors.

When Manilla fell, the Spaniards were dispossessed or withdrew from their possessions in the Sulo archipelago. Sultan Amir having brought with him from Manilla a number of mythological and religious paintings venerated by the Chinese, with some opulent, enterprising people of that nation, succeeded in reestablishing the ancient commercial relations with the China empire; the junks visiting them annually ever since, and which commerce had been put a stop to by the Spaniards, on their first arrival in their vicinity.

Mr. Dalrymple remained a considerable time at Sulo, visiting the islands and making the necessary preparatory arrangements for the permanent establishment of the British power in these seas, and having bound sultan Amir in a sacred promise to reign with equity, departed for Madras.

It was not till the year 1773, that the East India Company established a small settlement on the uninhabited island of Balambangan, with a view of forming an emporium for eastern commodities in aid of their China trade; and this island was selected from possessing two noble harbors. Troops and stores were accordingly sent from India, and numbers of Malays and Chinese began to settle here: but in the year 1775, the Indian troops being very sickly, the cruisers sent on commercial expeditions, the fort was surprised by the Sulos; who rushed into the place, put the sentries to death and turned the guns upon the troops, principally Buguese; the few settlers recently reduced in numbers, made their escape to the vessels in the harbor, and proceeded to sea; the booty obtained by the Sulos in guns, specie, piece-goods, and produce, public and private, was immense: the loss to the East India Company has been estimated at £ .75,000 independent of that of individuals: the three residents after Mr. Dalrymple at Sulo were Mr Herbert, Mr. Coles, and Capt. Sweeding.

The following is an extract from the newspapers of the day on this important transaction: "By advices overland from Bencoolen, the Sulos, this day (24th April, 1775) took the East India Company's new settlement of Balambangan, and in it effects to the amount of 920,000 Spanish dollars and upwards; the garrison and other servants to the company retiring to labour another settlement, with effects to the amount of 210,000 dollars; however thirteen of the garrison were missing."

"The above island of Balambangan, concerning the settlement of which, a dispute has been for some time subsisting between England, Spain, and Holland; is situated at the north end of Borneo and lately belonged to the king of Sulo, who in 1763 made a cession of it to the English. In 1763 Mr. Dalrymple took possession of it for the East India Company and hoisted the flag there, since which a proper force has been sent and a regular settlement made on the island, under the direction of Mr. Herbert one of the council of Bencoolen, who was appointed governor. This gave umbrage to the Spaniards and the Dutch, who are extremely jealous of our fixing a trading station so near the Philippines and the Moluccas; and accordingly the last advices previous to that of its being taken as above by the Sulos, mentioned, that the Spanish governor of Manilla had peremptorily required Mr. Herbert to evacuate that island. With this demand Mr Herbert did not think proper immediately to comply, and when the intelligence came away, he was preparing to defend himself, though with little prospect of success against so superior a force. According to the treaty of Munster in 1648, the only treaty subsisting between the English and Spaniards which explains and regulates the rights and limits of the latter in the East Indies, the Spaniards have no right to extend their East India navigation farther than they had at that time carried it; consequently they can have no claim to Balambangan."

The only reasons given for these acts of the Sulos, are their innate love of plunder, their treacherous dispositions, their apprehensions that by the trade concentrating at Balambangan, Sulo would lose her commercial advantages; and there is not a doubt that what Capt. Forrest has advanced is the fact, that they were instigated to the atrocious act by the Spaniards at Samboangan, and the Dutch at Manado and Ternate. The Sulos boast of their deeds and do not conceal that they obtained every assistance and supply of powder, arms, &c. from Samboangan and Ternate, and to this, the honor of the British flag has never been vindicated by the punishment of these atrocious pirates. In 1803, Balambangan was reestablished by Mr. Farquhar, and the garrison of Amboyna, but the establishment being expensive, without any prospect of immediate advantage to the East India Company, who had to bear the whole expense, while the profits fell to private adventurers in 1804 the settlement was withdrawn. This island has been universally acknowledged to be happily situated for a commercial intercourse with all the valuable trading ports on the west coast of the China seas and the circumadjacent isles, a noble and appropriate half-way house for the China trade; nor is there a doubt, could the finances of the East India Company have borne the expense for a few years, their commerce would have ultimately derived those great advantages expected from it by its original planner, LORD PIGOT; and subsequently by that great and able politician and sound statesman, the Marquis Wellesley.

In 1808, on the death of the old sultan Alli-ud-deen, the small pox raged so violently at

Sulo, that most of the principal inhabitants fled from the capital to avoid the infection; among these was the heir apparent Datu *Bantilan, during whose absence*, his nephew Alli-ud-deen was elected by the Ruma *Bechara* to the musnud. In 1810, Dato Bantilan (then at Parang) finding no hopes of getting reinstated, determined to assert his rights by force: he brought with him a large body of men and prows, threw up a stockade on the southern side of the roadstead within half a gun's shot from the fort, and besieged it for six weeks, but from want of ammunition and more ample resources, he was at length obliged to raise the siege and retire to *Parang*, where he shortly afterwards died, bequeathing his rights to his eldest son and heir, Dato Adenan. The latter, with a view to strengthen himself, and to enable him at some future period to assert his claims with success, has formed a family alliance with the sultan of Cotti, by marrying his daughter. *He* made repeated proposals to me, as the British agent, to sign a treaty offensive and defensive, promising to confirm to the East India Company all their rights as formerly ceded by the three respective treaties with Dalrymple, stipulating for himself, the being placed upon the throne of Sulo. (Aug. 1814).

The succession of sultans to the musnud of *Sulo* is as follows, viz. first, Malhomed Batua: second, *Malhome de Palow*: third, Malhome Hadungan: forth, Malhome Mahomed Nassaludeen: fifth, Malhome Bantilan: sixth, Malhome Mahomed Israel: seventh, Malhome Mahomed Allimudin: eight, Malhome Mahomed Allimudin the second: ninth, Malhome Mahomed Serafudin: tenth, sultan Mahomed Alli-ud-deen the reigning prince.

In most of the *Malay* states the sultan is despotic: in Sulo the government is an oligarchy vested in the sultan and datus, in the Ruma Bechara assembled; earliest navigators have observed, "the great oppress the poor, because the king has not a proper degree of authority." *See Camelli, Carreri, Combes, Dampier, Sonnerat, and Forrest.*

Even at this day, he is a mere cypher, neither feared nor respected; his orders disputed by the meanest individual, unable to decide on the most trivial points, without the concurrence of his Ruma Bechara. All the sons of every sultan assume the title of Datu and which again descends to all the children of this datu and their progeny, ad infinitum; (when addressed by an inferior, they call them by the title of Patik:) the whole of these had formerly a right to a seat and voice in the Ruma Bechara; but as their overgrown number became inconvenient, after the death of sultan Sarafudeen, who had reigned for many years, Paduk Sri sultan Mahomed Alli-ud-deen, the eldest son of the foregoing ascended the throne. He ordered a board of commerce consisting of six members; viz. Datu Maharaja Dinda, Datu Muluk, Datu Bandahara, Datu Tomanggong, Datu Miebenar, and Datu Johan, whom he invested with such powers, that even the sultan's commands, without their sanction, should, in commercial affairs, be deemed null and void. He also appointed Datu Naaloba Dalahan, vice-sultan, to act in case of his own indisposition: Datu Mahomed Sakilan, to be his successor to the throne, because his elder brother Mahomed Alum does not wish to undergo the fatigues of office.

But as several powerful chiefs were dissatisfied with this arrangement, not relishing a total exclusion of power, a considerable extension of the Ruma Bechara has taken place, consisting not only of Datus, but of other chiefs, not descended from the blood royal. In 1814 this assembly consisted of viz. Datu Maharaja Dinda, Datu Raja muda, Datu Bandahara, Datu Miebebar, Datu Muluk Mandarasa, Datu Johan, Datu Muluk Kahal, Datu Maharaja Laila, Datu Tumanggong, Datu Naiyib, Datu Mukbilat, Datu Milbesial, orang kaya Malik, orang kaya Shabundar, Panglima Halis, Datu Sadama, Lusimana, orang kaya De Gandong.

The customs, or five per cent ad valorem, on British goods, and an uncertain sum from each junk, are shared in unequal proportions among the sultan and the above chiefs, agreeable to their successive rank; but the quota of each, I know not, and this is the only regular revenue collected. The above titles are not hereditary, but generally for life, depending on the will of the sultan by and with the advice and consent of the Ruma Bechara assembled; for example, Datu Muluk Mandarasa, was turned out of office, whilst I was there, and a person no-wise related to him appointed in his room.

The reigning sultan appoints his successor from his own legitimate progeny, or that of his fathers: each datu has also his distinct duties and office allotted to him, but what these are, I cannot readily notice. However, the power and weight of the chiefs arise solely from their wealth; or like the Barons of old amongst us, from the number of ambas or retainers each entertain; in 1814, their weight and consequence stood thus, viz. *first*, the sultan with his brothers, datus Allemare and Sakilana, three thousand ambas; *second*, the son of the deceased Raja muda, Datu Jamald, married to the daughter of Datu Sakilan, three thousand ambas; *third*, Maharaja Dinda, three thousand ambas; *fourth*, Datu Malbahar, three thousand ambas; *fifth*, Maluk Mandarasa, with the ambas of his deceased brother Datu Mandabara, three thousand ambas; *sixth*, orang kaya Malik, three thousand ambas.

The other members forming the Ruma Bechara, are mere cyphers; only adding a numerical force to the integral number to whom they have attached themselves: the parties under the heads, *first*, *second* and *third*, are those that are the most obnoxious to British connexion or to any alteration, from the present piratical pursuits.

These ambas are slaves purchased from the piratical prows of Magindanao, on the coast of Bisayas and elsewhere and not only add to the power of their respective masters, but are employed in their trading prows, in the birds' nest rocks, & the pearl & tripan fisheries; being the grand source of their wealth and power. A slave is allowed to enjoy the fruits of his labour (occasionally) whilst he lives, but the lord inherits to his estate, and some of them are richer than their lords.

The other titled chiefs are as follows; many of whom are governors of provinces and detached dependencies; Orang Kaya, Abdulhaman; O. K. Ahmad, Panglima Irang; O. K. Bantara; O. K. Aber; O. K. Adak; O. K. Alip; O. K. Satiatu; O. K. Padak udiaen; O. K. Dalmaputin; O. K. Malli; O. K. Malulbai; O. K. Bintara Said; O. K. Amung; O. K. Abdulhakim; O. K. Labing; O. K. Lakibul-umil; O. K. Ahmad, tuan katib, secretary to the sultan; O. K. Malatib, tuan Valli, tuan Imaum Musjid; Datu Ossop, Nakib Dunngmang, Amaldatu; O. K. Mahmud; O. K. Saihid; O. K. Bastna, Panghulu raja.

The other hereditary datus, holding no official situations are innumerable; and lord it over the few untitled freemen that are to be found in Sulo; it is high treason, to compass or imagine their death or dispute their power, except by the act or authority of an equal or a superior. This induces all free settlers to range themselves under some powerful datu.

Considering that Sulo, was once reputed the Mecca of the east, and a great proportion of her population converts to Islamism, it is astonishing how little they know and how much less they follow the doctrines of their faith. There is yet a mosque, but an entire ruin, and for many years past, all religious observances entirely neglected; the only precepts of Mahomed, either observed or known, is the abstaining from swine's flesh, being circumcised, and enjoying a plurality of women. They are less bigoted and less attached to the tenets of their religion, than the Malays; of liquors and wines they are excessively fond, and when procurable, indulge in it to excess, with as much glee and with as little scruple, as any dram-drinking Christian; and though polygamy is sanctioned by their religion, I cannot mention the name of a single chief, that had more than one wife; although occasionally indulging in the wantonness of concubinage, it is proverbial in Sulo, that the women wear the breeches.

This indifference to the tenets of Mahomed, I attribute, partly to the prevalence of their original belief, never being completely converted, and to the numbers of Christian slaves, annually imported by the pirate prows from the Philippines. The female Christian, not only solaces his hours of recreation from family duty, but they are the nurses and instructors of the rising generation; the playmates, confidants and companions of their progeny. From their contiguity to the Spanish ports and the commercial intercourse with the ports in the Philippines, they have frequent opportunities of comparing the superior comforts, the valuable acquirements and the improved habits of the converted Indian under the Spanish dominion, with their own miserable institutions, and deplorable ignorance; hence there scarce exists a doubt, that they would long ere this, have become professed Christians but from the prevalence, that such a change, by investing a predominating influence in the priesthood, would inevitably undermine their own authority, and pave the way to the transfer of their dominion to the Spanish yoke, an occurrence which fatal experience has too forcibly instructed all the surrounding nations that unwarily embraced the Christian persuasion.

Most of the chiefs at Sulo speak the Malay, but very few can either read or write it; the communication from the Java government was obliged to be read by my jurtulis. The Hajis from Java, are the only people that pretend to any considerable proficiency in Malay literature. Many of the Datus speak the Spanish language, and some of them the Chinese fluently; the former they have learnt from the Christian slaves, the latter from the great numbers of that nation, settled all over the Sulo possessions. But the indigenous language of all the islanders is the *Bisayan*; which is the prevalent tongue of all the islands south and of the province of Bisayas on Luconia. The few records private or public that fell under our observation, were also in the Bisayan character. My Malay writer had formed an alphabet, numerical characters, and an extensive vocabulary of the language, but which have, with all my memoranda relative to Sulo, been destroyed by damp and the white ants, before I knew that "Dictionaries of Tagala, Bisaya, Pampanga, &c. were voluminous, and a considerable portion of the number of words they contain, similar to those spoken on Sumatra;" *Marsden's vol.*

Upon the antiquities and curiosities, I must be very short. There are stone images innumerable in the interior of Sulo and the other islands, with other slender antiquities; but I really forgot the particulars; there is one with several arms, several human figures with the snouts of elephants, a dying warrior as large as life in a recumbent posture. At a place called Bata, the back of Sulo or Soug, there are ruins with stone images innumerable, most probably the last relics of Hindu idolatry. The Sulos either cannot or will not afford the enquirer, any rational account of their origin or use; they say, these ancient temples were constructed and are inhabited by Jans or evil spirits; they gravely affirm, that the images move about to the great consternation of those that have temerity to obtrude on their mysterious haunts.

Similar vestiges of the Hindu worship (I was credibly informed at Manilla) are to be seen in various parts of Luconia; not a doubt can exist that this was the prevailing religion all over these isles antecedent to the introduction of Islamism. I think, abbe Raynal, Sonnerat and some other writers notice this. At Salon Salon, in the province of Ilocos, I met several of the unconverted Indians, very much of the appearance of the Hindus in their dress, ornaments, &c. The padre of the district informed me these infidels were of the Hindu persuasion and that neither force nor persuasion had as yet enabled the Spaniards to convert them from their idolatrous worship.

Their houses are generally small, built after the Malay fashion (and similar to the dwellings of all the Indians on the Philippines) raised four or five feet from the ground on piles, the roof and walls formed of attaps and the floor generally of split nibongs: there is not such a thing to be seen as brick, stone or mortar in any of their edifices, public, or private. At Soug or the capital, one half of the town projects out into the sea, beyond low water mark, whilst the remainder is on dry land. The Chinese dwellings with two or three belonging to the datus, are lined and floored with plank; a recent and rather uncommon practice. The form of the house is of a long oblong square, containing only one room. In the centre they place their chests, containing their valuables and on these they spread their mats, for sleeping; this space is consequently, hung round with curtains (a dinding) of chintz, with a canopy or calambo. The kitchen is placed in the farther part of the house. They have two flights of bamboo steps or rather a bamboo ladder, leading up to them. The only difference between the palace of the sultan and that of any other individual, is, that the former is larger and considerably higher, a royal distinction here, as well as at Siam and the other kingdoms comprised in the farther Peninsula. The general appearance of the whole, is abominably disgusting, being nasty and filthy beyond conception. The communication between the houses built out at sea, is by a sort of bridge of old prow planks, which form a path way, and a bamboo railing. At night the ladder and plank of each house is pulled up for better security; there is also a platform before or behind each house, for the purpose of drying tripan, the betel nut &c. In various parts of Sulo, the inhabitants, to save the trouble of driving piles to erect their houses on, lop the branches of a clump of trees and with bamboo boards, nibong and attaps, form a house upon them, which has induced travellers to affirm that a caste of these people have their habitations in trees.

About two centuries ago, the Sulos were thus described: "Their little houses are covered with mats; the ground is their only seat, the leaves of trees serve them for plates and dishes, the canes (bamboos) for large vessels and the cocoanuts for drinking cups." *Combes, Gamelli, Carreri* and *Dampier*. But manners have altered much in this respect, since the period these authors visited these shores. From their commercial intercourse with the Chinese and Spaniards, they have learnt the comforts and utility of various articles of civilized life; most houses are furnished with benches; some of them with chairs, and when Europeans visit them, they never sit upon the floor; most of them have a small table for eating their victuals off and all their implements of food, whether of culinary or table use, are of Chinese manufacture. Several of the datus have very superb table sets of glass ware of Chinese or Spanish manufacture with gilt edges; which they are proud to display on all occasions; porcelain plates, dishes, cups, and saucers, brass and iron cooking utensils, silver spoons, and Birmingham cutlery, are to be seen in every house; British embossed long-ells for bed carpeting, Madras palampores, China pillows, and chintz curtains, embellish the dormitories of all classes of people and every man has a considerable number of Chinese chests with locks for the safe deposit of his valuables.

As a head dress, most of the Sulo men prefer the pulicat red handkerchief; a few only the fine Javanese handkerchief; which they wear tied round their heads, [illegible] the Malay fashion. The middling classes and slaves are however partial to handkerchiefs of the most lively and showy colors of the French and American patterns. They wear their hair, pluck their beards and dye their teeth black, precisely like the Malay; their eye-brows are shaved into a fine moon like arch, after the Chinese fashion. They also wear the China baju, full sleeves, without buttons, either of rich gauzes, silk and sattins of all colors from China, or of Europe and Coast chintzes of the largest and liveliest patterns; and some wear Manilla grass cloth. The lowest slave, in this respect, vies with the datu in splendor of apparel; their trowsers are like that of the Chinese, made large; they wear an immense long cumberband, generally [illegible]urat patoli (chindai,) which they throw across their shoulders or wrap round their waists, under the chinder, a cotton check sarrong or tajom of Bugesse, Mindanao or Sulo manufacture, of a blue, red, or black check; no stockings, but all wear either Manilla or Chinese shoes; the Malay creese and pinding are also their never-failing ornaments. Some of the datus, wear muslin, tight, close-sleeved jackets, to fit close to the body, either of plain, flowered, gold or silver sprigged stuff. But the court dress of the datus, on gala days and solemn occasions, is of the most splendid Chinese mandarin robe, made of costly silks and sattins, embossed and filagreed with gold, pink sattin breeches, decorated with gold dragons and splendidly embossed.

They have also their war-dresses, composed of enormous silk and sattin robes, stuffed and quilted with cotton not unlike a Japanese bed-gown. And many of the datus wear a netted armour of thick brass wire, with helmet, visor and target; manufactured for them, by the Buguese. Their court dresses are made up for them at China.

The women of Sulo, wear a close short baju of cotton of various colors, with kanchings on the back part of their arm; *breeches* of fine white cloth, or of flowered silks of kincobs, with two sarongs, one over their shoulders, the other to serve as a petticoat. They tie their hair a *la Conde*, on the fore part of the head; and wear krabows in their ears, rings on their fingers, and Chinese shoes on their feet. In their houses however, they are naked from the waist upwards, with only their saluar or breeches on, displaying what Mr. Burke calls: "Nature's most perfect display of the sublime and beautiful." They arch their eye-brows with the razor and shave the short hairs round their forehead; their teeth, like the males, are filed and dyed black. The women do not wear the Malay pinding.

The sultan and chiefs, seldom rise before ten or twelve o'clock or later, until the fumes of the opium have evaporated from their aching heads. They then have set before them a gilt edged tumbler full of chocolate, with maccaroni and biscuit from Manilla, and ho ho, and sweetmeats from China. They generally remain in their houses to transact business, or attend their duties in the Rumah Bichara until sun set; it is then they eat their principal meal, consisting of boiled rice, fish, poultry, fresh beef or dinding, vegetables and eggs prepared with cocoanut oil in the iron qualies, after the Malay fashion; after this, they take their evening rounds, either to the China shops or to the factories of the Europeans to effect their sales or to make their purchases; and on these occasions, make no ceremony of keeping up the parties, until two or three in the morning, smoking cheroots and opium, and sipping tea, coffee, chocolate, wine or liqueurs. If they remain at home at night, they indulge themselves in smoking opium and chatting over their bargains, or have their slaves to entertain them with Javanese music, or vocal and instrumental music, after the Spanish manner: these are generally Spanish tunes, with Bisayan poetry, though sometimes sung in Spanish. Most of the datus understand either the flute, guitar or violin, and all dance and sing the favorite Spanish dances and ballads.

Every chief, whenever he ventures abroad, whether by night or by day, is accompanied by a band of trusty followers, armed with their favorite weapons, the spear and creese, with targets of light wood to guard them from assassination, or to execute their commands in that way. They live in perpetual distrust of each other; where man steals man, (and the *only law is force,*) such a system of precaution, must be necessary. Every visitor is entertained with sweetmeats, cakes and chocolate, of which it is expected, he will partake; this cloys their stomach and destroys their appetite, so as to render one meal per day sufficient. The poorer classes manage two when they can get it: which on shore is generally the case, as there can be seldom any scarcity; and in comparison with the Malays, they may be said to be in affluent circumstances.

The Sulos, are certainly more polished than the generality of the Malays, though it certainly does not appear in the architecture of their houses: they study the Chinese and Spanish customs and endeavour to imitate them as much as possible, though they affect to despise the one and to hate the other. The form of their government, stamps in a great measure the character of these people and makes the difference between them and the Malays. The slender power of the sultan and the freedom of their mode of government give an unlimited latitude to commercial industry; and the life interest which every slave retains to his personal acquisitions, gives the united mass of people a far greater proportion of activity and industry, than what is to be found among any of their neighbours. But this unchecked liberty renders the chiefs and people haughty, overbearing and insolent, to an inconceivable degree.

A Sulo chief, nor even a slave, neither crouches, makes any obeisance, or thinks of squatting down, either to the sultan or to his own master: all is equality in this respect, and there is no general controlling power; so that every man does what he pleases, right or wrong, and only fears what force may effect against force. The Sulos are by no means jealous of their women, they are said to be (for a certain consideration,) more complaisant with their wives than Europeans. Though ever on the watch for gain, and ready to practice every fraud and crime to obtain it; yet they are not avaricious, but spend with facility whatever they gain. There is no instance of a Sulus hoarding up more property than is necessary for his current trade, and very few that have a rupee or any species of wealth, beyond their numerous retainers, and a prow or two. Their principal passion appears to be a lust of power. They are ostentatious, haughty and consequential, and the object of their life is to increase their number of ambas. Of their vices, they are to a man the most treacherous race in existence; the fate of Balambangan and the thorny intercourse which the Spaniards have had with them, powerfully illustrate this. They are extremely revengeful. An insult offered to their dignity and consequence, is never forgotten and seldom forgiven. Though perpetually boasting of their courage and prowess they are known to be the most dastardly race in the universe. I have seen a Spanish launch, from Samboangan, with sixteen men and a one-pounder, chace about forty, and capture six Sulo prows well armed, with from fifteen to twenty men each and heavier metal.

To comprehend the division of Sulo into districts, or main wales, I must refer you to Dalrymple's chart of Sulo, contained in the collection of charts, by *Monsr. Dufres Manoillet*; the names of all the capes, hills, and provinces, are therein marked; so without it, much of the following description will be unintelligible.

Formerly, Sulo was subdivided into several chiefships, all subordinate to the capital.

These chiefs were of the rank of Panglima, Maharaja Palwan, and orang Kayas. The commanderies were eight in number viz. first, Loo which comprises the country of Bual, and Patibulan under a panglima; second, Paint Dahow under a Maharaja Palwan; third, Panchunah or Panchuar (and Tumtumang to the westward;) fourth, Gemona (Summan;) fifth, Tandoowan (Tandoo) sixth, My-mmon the district adjacent to that town; seventh, Pug Pug (the district between Bud Dato and the sea on the other side;) eight, Parang (Tukay under Pareang Datanc.)

At present, the island is divided into four rulas or provinces; viz. first, Panchuar, of which Soog or Solo is the capital; second, Parang in which Parang and Maybun are the chief towns; third, Gantong, Sipoc is the principal town; fourth, Luki, of which Bual is the chief town and in Luki is also incorporated Tandu Gannon a separate province.

The population of Solo, as stated in most Gazetteers, is computed at sixty thousand souls; however this might have been the case, there is at this day, a very great increase of its population. As I have had an opportunity of inspecting the sultan's archives, of making enquiries of the chiefs of districts, and of personal observation, in sailing round the island, I think the following statement, from the sultan's books, is rather under the truth, than exceeding it, viz. two hundred thousand souls.

Solo town or Soog, the capital, has thirty-five hundred dwelling houses, with a resident population of six thousand Islams and eight hundred Chinese. The produce of the lands and near circumadjacent, are tepoye, (mother o'pearl) pearls, cocoa, paddi, cattle, buffaloes, horses, &c. A larger population is not reckoned, as more than half the inhabitants, are always out on trading voyages, in the pearl and tripan fisheries and collecting of birds' nests, &c. it has a small river running through the town, ... 6800

The following towns are on the sea coast, in succession taking a westerly course from Soog the capital.

Dhalbain, two to three hundred men, paddi, . . .	200
Matanda, chief lately dead, abundance of fine teak and paddi, . . .	1000
Bato Batu, chief Sherif Hassan; teak forests, paddi, and lanut, . . .	1000
Kanjaia, chief, Pangeran Alum; teak, paddi, sugar, . . .	1000
Timahow, do. Maharaja Palwan Damang; paddi, . . .	2000
Sewagun, do. Pangeran Hassan; paddi, sugar, much teak wood; from five to	4000
Silankun, do. Datu Adamm; paddi, sugar, teak, five to . .	4000
Alu, do. orang Kaya Kindingan; paddi, sugar, much teak & coconuts,	5000
Bawisan, do Laximan Palai; coconuts, and cocoa, . .	1500
Tanduk Buaya, do orang Kayas Abu, & Dalampulie; paddi, coconuts, sugar, there is a small river here, ...	4000
Palang or Parang, chief, Datu Adinan, orang Kayas, Sally Bangsawan and Maharaja Dinan; tepoye, pearls, tripan, birds' nests, paddi, extensive teak forests, .	8000
Lanuan, Maharaja Palwan, Sherif Maharaja Sully, Bangsawan Imbi; paddi, tepoy, pearls, tripan, and much teak wood, ...	2000
Mabingkun, teak, ...	—
Maimbun, Datu Wallud; pearls, tepoy, tortoise shell, tripan, paddi, has a small river; 3 to	2000
Pulupantaan, (near the main) tepoy, pearls, tortoise, tripan, and shark fins, .	1500
Subatan, ...	—
Pula Pata, chief, Panglima Japar; paddi, cattle, ...	7000
Tallimaw, paddi, ...	3000
Patibulan, chief, Maharaja Palwan Baisid; paddi, ...	2000
Tapulan, chiefs Perkasa Allum, Abdul Rumman; paddi; a small river here, .	1000
Kadungdong, chief, Dimuwan, orang Kaya Amil Humja; paddi, . .	6000
Pitogo, chief, orang Kaya Abdul Summadi paddi, ...	1500
Tandak, chief, Manaukoturu; paddi, ...	8000
Pulo Kamalangan, chief, Laximana Dahman; paddi, cattle, buffaloes, . .	15000
Bait Balu, chief, Laximana Dainan; paddi, cattle, horses, and buffaloes, . .	9000
Bulit Kasin, chief, Tuan Mantangan; do. do. do. do. and has a small river, .	3000

Pulo Tulain, orang Kaya, Abdul Summad: forms a noble harbour with the main,	3000
Bohol, Pangeran Dawal; many pirates, paddi, cattle, buffaloes, horses, and a small river,	6000
Kansipat, chiefs Pado' a Tahil, Paduka Atti, paddi, horses, cattle, buffaloes, and some tripan,	4070
Soo, chief, Al onnaka Abdulla; paddi, much teak timber,	6000
Boon Boon, paddi,	1000
Tamp, chief, Parkasa Alam, teak forests,	1000
Jobian; paddi, cocoa, pepper,	— —
Taglibi, chief, Tuan Tahil; paddi, much teak wood,	400
Buang Hinon, chief Pangiran Kamba; do.	4000
Patikol, chief, Pangiran Asib; paddi, cattle, and much teak,	5000
Tandu, chief named Baiyang; paddi,	1100
Mabu,* do Dato Bandahara; bamboos, paddi,	1600

The following are the names of the different towns and villages in the interior commencing from Soog.

Parul, two hours on horseback distant;	7000
Parangtagas, half an hour do.	300
Amu, three hours, do.	800
Mai aia, three hours, do.	1000
Suul, half an hour do.	300
Balian, one and half hours, do.	2000
Buan, three do. do.	1500
Uitung, four do. do.	6000
Linbul, two do. do.	2419
Simungan, three do. do.	1600
Tinga, three do. do.	2010
Bun Lubba, four do. do.	800
Parrung Manung, three do. do.	140
Pang pang, two and half do. do.	1000
Passal, three do. do.	400
Bugsook, one do. do.	700
Dairayan, one and half do. do.	400
Anuhn, half do. do.	100
Atul, two do. do.	800
Kulayan, half do. do.	100
Tabigbuna, half do. do.	50
Pugmoshan, half do. do.	60
Gumastong, half do. do.	60
	142, 370

The names, with the population of the other villages in the eastern districts, are completely destroyed, nor have I the means of replacing them; they complete the population to 200,000 souls.

The situation of all the principal hills inland are marked in Dalrymple's chart before mentioned. The peak of *Timontangis*, near the capital, is the highest land on the island; it is a single mountain detached from the others adjacent, and of a conical figure.

To the southward of it, is a smaller mountain, (I forget its name) of the most luxuriant and delightful appearance, cleared and verdant to its very summit; it has also a remarkable peak, apparently steep and detached, and formed as it were by nature for an observatory. The summit forms itself into table land, gently sloping to a cave, which some years ago fell and is now the scite of a populous town, on one of the most agreeable spots on the island. To the westward, between Tuoki and Timantangis, there is a peaked hummock, called *Hilgangow*, not very high, but woody; to the east of Tuoki, there are groupes of delightful hills; that called *Tulipan*, surpasses the rest in beauty; it is tolerably high, though less so than many parts of the island. The south side is half woodland, with savannahs; and the other half cleared, with a streak of wood running down from its summit to its base; this is the spot and almost the only one, where the breed of elephants, is yet kept up.

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* This town is close to Soog or Sung. The people on the sea coast live in what may be termed towns, those inland are chiefly in straggling huts.

Duhan is a high hill of a roundish form, almost centrical in the western peninsula. The summit exhibits a wide plain, on which they have built a town; and cut steps in the rock up its steep sides to facilitate egress and ingress. The security which this fastness presents, induces the inhabitants to predatory excursions in the neighbouring plains, and they fly with their booty and cattle up this laddered hill, secure from attack or the vengeance of the sufferers.

Between Duhan and Timantangis, though nearer the fort, are several hills, very remarkable in the prospect they present from the shipping. One of the two flat ones named *Dato*, was the retreat of the Sulus during the Spanish invasion, when the latter had constructed several forts on the island.

Dukalo, is a small hill, over-run with timber; it is at the bottom of Bual Bay. Ural, Tandu, and the chain between them to the southward, are chiefly remarkable, for the variegated beauty of their enchanting prospects.

Generally speaking, the west end of the island is hilly, the eastern parts lower, and more plain; the coast is every where interspersed with verdant groves of trees, and Alexandrian laurel; and it is relieving to the eye to view the cultivated plains here and there bursting upon the view with sublimity of effect.

The island of Sulo, was anciently divided into two parts; they say, the sea overflowed the centre of it; but it has long since receded and the bed of it now presents rich cultivation.

The soil of Sulo, is generally of a stiff, loamy, black or red mould. The country between the hills is not a dead flat, but undulated, cultivated in various parts, verdant every where, and watered with numberless streams, which pour down on all sides, and fertilize the country, thus rendering the soil happily adapted for the cultivation of grain and the sugar-cane.

The husbandry of Sulo is very far from being adequate to its natural advantages: from want of proper attention to the irrigation of their lands, the crops in a dry season sometimes fail them; but with the smallest degree of art and industry in collecting and preserving their water, never failing crops would bless the hand of industry in seasons of the greatest drought, where at present the fields are so dried up, as to be scarce worth the trouble of cultivating.

From the great luxuriancy of the soil, the ground is apt to run into grass; so much so that if the land is successively planted with paddi for three years the grass chokes the grain; this induces this indolent race, to neglect grubbing up the roots of trees, but they set fire to the grass, which consumes the leaves from the trees; giving to the whole an appearance at a distance of barrenness.

The sorts of paddi growing at Sulo, are the mulanji, makal, manahat small, pulan etam, pulan puti, lainggan, dawa, kantan; but the quantity of this essential grain growing on this beautiful island, by no means equals the consumption, even in abundant years: large quantities of paddi are imported from the ports on Magindanao by the Spaniards; from *Antigue* & *Hoilo* in Panay, & from *Samboangan*; from *Bassilan*; from their possessions on Borneo, and the other adjacent isles; from Bengal and Manilla. Three Spanish dollars the picul for new rice, is reckoned an average price.

Pumpkins, cucumbers, radishes, yams, brinjals, sweet potatoes, and the China potatoe of the best kinds, were procurable daily in large quantities in the bazar, during our stay and at very reasonable prices. The other kinds are paris, dabun, kankong, alumapa, patula, obi, kabasi, marus, batong, panghi, padiwal, tabak, or tobacco, &c.

The bungha magi, lambai, malati, champaka, kananga, &c. are sold in as great variety and of the same quality as the flowers at Batavia, for decorating the hair of the Sulo belles.

The fruit here is extremely plentiful, cheap and of a delicious flavor. The mangoes are small, but sweet and luscious; the oranges are equal to those of the China species; the mangusteen, jac , durian, champada, and the varieties in the plantain kind equal, in every respect, those on Java and the durian is thought to be far superior. The other kinds of fruit procurable, or growing here are, viz. buno, bowno, madang, samphel, [illegible], assam (or tamarind,) san sado, rambutan, lamuran, wakapo, lupoin, parat, jeruk gaja, jeruc manis, ananas, (or pine-apple) mumpiam, tibada, komansi, kalapa (or cocoanut), sangaja, bantak, baisbas.

The timber trees fit for house and ship building, carpentry and joinery works, are procurable here of the first kinds, of the largest dimensions, and, in any quantity. The teak tree flourishes in great luxuriance and is abundant on all parts of the island. The mahogany is equal to that from Honduras and the blue wood and ebony equal to any produced on Laconia. The three last are taken to China by the junks, in beams and slabs and sell to good advantage. The Alexandrian laurel is found here of gigantic dimensions. The other kinds are as follows: viz. those of a white tinge are the hamalown, poteck, kammatelong, pagatpat, daegil, taisal, nato, balis, manakalan, panut, tandok, tanglawa boja, bolo. Those of a red caste are: dagaiyon, ipeel, tabigi, kaukong, lupanga, baijug; of the black kinds, are arang or ebony in abundance, ballok, mombahant. Other sorts are, bintangor, pitutan, bakaw, dungon, nunok, malawi, kalaetil, banaba, palomaria.

The other products of Sulo, are as follows: sago of the best kind; pepper was formerly cultivated to some extent and flourishes here, but from the little demand, they only grow as much as is required for home consumption. The cinnamon is particularly fine, from ten to twenty piculs are annually barked for preparing their chocolate, but from the extensive groves of this valuable plant, this article might be greatly increased. The Sulo cinnamon is not so pungent as that from Ceylon, but differs essentially from the *Laurus cassia*.

The chocolate cocoa, or cacow, grows all over the island in great luxuriance, and has become the common beverage of all classes. The Spaniards generally export from one to two hundred piculs to Manilla, where it is held in high estimation. Sapan wood, red wood, and various dyeing woods are exported for the China market. Indigo equal to that made at Manilla, is manufactured to a small extent but consumed on the island. Turmeric and ginger grow here in perfection. The coffee tree also flourishes on the hills, but is not an object of attention. Wheat equal to that at Manilla grows here, and the sugar-cane flourishes; both these articles are confined to their own wants, but might be advantageously extended. The plant that yields the Manilla white rope, and the gamu is plentiful, and a species of hemp and flax, of which they manufacture their fishing lines is found in all parts. Cotton equal to the Manilla grows in various parts of the island, but can scarcely be said to be an object of their culture. The sandal wood, the clove and nutmeg trees are said to exist on the island. The bread fruit and laka wood are abundant.

Manufactures are at so low an ebb as to be scarce worth mentioning. The principal article manufactured here is a vegetable salt extracted from a ley of burnt sea weeds and albung, and this is the only salt used all over the Sulo possessions. The marine or bay salt has neither value nor use at Sulo. It is crystallized into solid cakes in iron qualies, & when used, a hard lump of it is stirred about in the potage, until it has the required relish. Prow building may be reckoned the next grand object of their attention. Buguese sarongs and tajams of a very fine texture, tartan-striped, are manufactured here for home use. Sugar, indigo, chocolate and salt-petre are made here equal or very nearly so to their wants. They they have cutlers employed in the manufacture of creeses, and goldsmiths in making up their ornamental jewelry.

Some of the gentlemen who occasionally indulged in a shooting excursion, report that the fields abound with game of various kinds; partridges, wild ducks, snipes, teal, quail, doves, and some other kinds similar to those on Java were occasionally brought in. The other sorts are called by the natives as follows: bill of two sorts, sambaleken, buggok, banghow, achang, uak, bauol, kamaso, tikdow, konuot, mundasian, kangha, kalasi with yellow feathers and the salangan which is the most esteemed of any. Nuries and kakatuas are often purchased here, cheap and in great numbers, but they are also imported by the prows from Ternate and the eastern islands.

The bullocks are fat, juicy, well flavored, and in great abundance all over the island; shipping generally pay from six to eight Spanish dollars for a choice one, but two white coarse baftas will procure them much easier from the country people that daily bring their produce upon the backs of these animals to the great bazar at Sulo. When shipping are here, one of the datus has the exclusive privilege of slaughtering cattle, and then beef is procurable from the shambles at a moderate price. The horses are of Spanish or Manilla breed, full of fire, and hardy, but in general kept in indifferent condition; the country people from the hills come down on them, with a wooden saddle (the seat grooved out) with stirrups and bridle, but it is equally common to see them mounted on bullocks and buffaloes; they are however always armed cap-a-pee and carry lances and targets.

The Chinese slaughter pork with great secrecy, but it is always procurable. They pay a tax to the datus for the privilege of slaughtering, although it is directed to be done with decency, from the strong abhorrence in which they hold the use of swine's flesh. Abundance of wild hogs are every where plentiful. The Chinese get those they use chiefly from the Spanish ports, not daring to rear them.

Sulo is the only island of the Philippines that breeds the elephant. The islanders neither tame nor use them. They were, it is said, originally imported from Benjar and formerly used as in Siam, Cambodia, Pegu, &c. for religious purposes. Formerly this island was overrun with these animals, but the terrible destruction they occasioned to the plantations, and being no longer venerated under their new religion, have induced the natives to destroy them whenever they could meet with them: and they have instituted a grand hunting match every year, after the grand crop is collected in. *Tulipan* is the only spot where the breed of elephants is kept up.

There are goats, some with skins spotted like leopards, and some beautiful dwarf antelopes not much larger than a hare. The other quadrupeds, are called by the natives, amak, ambow, haas, kavilan, kubing, orang utan, bukra, awbal, tingalong, kuting, eduk or jackall, &c.

The Sulo market, is abundantly stocked with a great variety of fish of excellent flavor, which may be purchased for a trifle; some of them singularly variegated with blue, purple, silver tinges, &c. Those kinds generally known to Europeans were the skait, the sole, cacab, rock, cod, rice fish, skip jacks, prawns, shrimps, oysters, muscles shark, and green turtle. The Sulo names are as follows, viz. ista, tengili, pangaluan a fish of considerable length, kutumba, bauwis, mumul, anapin, bukan, suling, unlukow two sorts, palit a blackfish, komel, ista puti, mangsa a large fish, lumbahan buring, sumbilang, tawty, kaitan, kahatong very large and voracious, kumbul, dapak, kumbal, lanna, tumbilowhan, panik, monko, ingatan, ista, manghali, lanus, kulabutan, lambana, along, kalilong, kunnutaba, kagang, bantunan, gamas very voracious, pari pari, kambang, bubangin, &c.

The China weights are in universal use here, the catty is regulated at twenty three Spanish dollars weight, but they have particular names for the subdivisions: 10 mubuks equal to 1 chuchuk, equal to 1 candareen; 10 chuchuks, equal to 1 amas equal to 1 mace; 10 amas, equal to 1 tael; 16 taels equal to 1 catty; 5 catties equal to 1 bubut, 10 bubuts, equal to 1 laxa, equal to 50 catties; 2 laxa equal to 1 picul.

Half a cocoanut shell is one panchang; 8 panchangs 1 gantong equal to 4 catties; 10 gantongs 1 raga; 2½ ragas 1 picul of 133⅓ lb. avoirdupois; 1 cabban (Manilla measure for paddi) 1 picul.

Cloth is measured by the extended arms, which is one English fathom; the length of the arm from the elbow to the end of the middle finger one covid: and the breadth of the finger one inch, though the China covid is known here.

Spanish dollars are in great estimation here by the Chinese Junks, who buy them up with laxa or brass money. The Sulus too in their intercourse with Europeans, regulate the prices of merchandise by Spanish dollars, yet it can scarce be considered the general currency among them.

The China pitis or brass tail, is what is in most common use for small purchases, and fluctuates like other articles of merchandise; however, in computation they say 4 compuries are equal to one kangan 6 fathoms long; 4 do. equal to 1 kowsong 4 fathoms long; 1 kampow equal to 1 Spanish dollar; 450 to 500 kusin or China brass coin 1 Sp. dr.

The island people make use of paddi in small payments, which fluctuates in value, according to seasons of plenty and scarcity.

The kampow, kangan, and kowsong, are China coarse nankeens white and brown, and their value in the market is always at the above par, being an article in universal wear among all classes of people. Upon rupees of all descriptions there is a great loss, viz. 1 Calcutta or Arcot rupee, 150 kusin; 1 Java rupee, 100 do.

We made use of west baftas and Birmingham cutlery for the purchase of our bazar, viz. one bafta, 1200 kusin; one razor, flowered blade, 400 kusin; one knife, scissors, or file, 200 kusin.

The Chinese junks always arrive here from the middle of March to the middle of April at farthest, always one, sometimes five, from three to seven thousand piculs burthen; the large ones generally meet with good markets and they always try to leave it by the 1st of August; those that neglect this precaution often lose their seasons and are frequently wrecked; some have been known to have wintered in the Spanish ports and ultimately compelled to sell their junks and cargoes. The junk trade to the Spanish outports, being always prohibited, Sulo lost this beneficial commerce, until revived by Mr. Dalrymple's holding out protection and encouragement to the junks at Manilla in 1763.

They generally come from the ports of Amoy and Pantow, where only the goods fit for the Sulo market are to be met with at first hand; the prices at Canton being too high to render it profitable.

There are no fixed duties levied upon them, but they pay according to the rated amount of the investment, agreeable to the contract made by their commanders and supercargoes with the sultan in the Rumah Bechara. In 1814 one junk paid seventy-five hundred Spanish dollars, the other five thousand. They also contract with one of the datus for a new mast, and hire a factory for the season; another weighty tax upon them is the being obliged to give the sultan and datus credit during their stay, from three hundred to five hundred dollars each; some pay, some do not, and always in goods at twice their value. The rest of their cargo they partly distribute out to the resident Chinese, to be paid in produce at a fixed value, and a part they keep to retail out from day to day for the prow produce as it comes in. Like other traders, they are subject to great extortions, without the means of redress, yet still find it their interest to continue this traffic, and it is said if one junk out of three arrives safe, nothing is lost. They are never freighted or loaded by the same person, but always by a great number of speculators. Of the two large Chinese junks in 1814, one was estimated at 7000 piculs burthen and had goods to the value of 100,000 dollars prime cost, the other of the same size at 50,000.

The export cargoes of the junks consisted of tepey (pearl shell,) cut betel nut, tripang, wax, seaweed, white and black birds' nests, camphor barus, tortoise shell, pearls, ebony, sapan wood, clove bark, (sassafras,) cassia, cowries, pepper, sago. I cannot give a particular account of the export cargo of each junk, that which was in my possession having been destroyed.

I shall state the annual consumption of Sulo and its dependencies of European and Indian articles at the Sulo price, or agreeable to the prices fixed by the Spaniards.

6	Chests of Benares opium.
50	Corges of blue Madras salampores, 6 kaul.
50	Corges do. do. do. 8 kaul.
100	Do. blue gurras, good.
200	Do. white baftas, or gurras, middling.
200	Do bleached 8 kaul salampores.
500	Pieces of fine cassas.
500	Pieces muslins, and doreas, flowered, striped, plain, sprigged, &c.

10	Do. blue moories fine, 18 to 20 kauls.
10	Do. white do. 20 kaul.
10	Do. blue succatoons fine.
200	Corges of Patna coarse chints.
60	Do. Trimularampatham chints, (kalamcarries.)
100	Do. Cuddalore coarse chints, red grounds.
	N. B. All chintzes the larger the flowers the better, and red grounds.
60	Corges Pulicat fine red handkerchiefs, large squares or checks, no white squares at the corners; with seven white stripes round the borders.
60	Corges Madras handkerchiefs; French, American, and Spanish patterns, as little white as possible and the more showy and gaudy the better.
100	Do. red Ventepollam handkerchiefs, fine and coarse from ten to 20 punjums.
10	Do. red Madras camboys, Spanish patterns.
10	Do. red Madras tanjams (imitation Bugis cloths.)
20	D. Madras fine chints; red ground, large flowers.
60	Do. Cuddalore small palampores.
60	Do. do. large do.
60	Pieces of fine Madras long cloth 38 punjums, or 19 kaul.
2	Corges of chindel, of all sizes and patterns, (pattolas,) 200 per cent profit.
5	Corges of Madras fine palampores; large flowers, a few pieces of blue, and also white Madras cambrics.
100	Pieces of Java fine handkerchiefs of patterns.
20	Do. of embossed long ells of sorts.
20	Do. of broad ells aurora.
20	Do. of broadcloth do.
6	Do. of double colors scarlet, &c.
500	Pieces Europe chints, large flowers, red ground, and of showy patterns.
200	Piculs of Swedish flat iron.
10	Do. steel in tubs.
100	Do. large spike nails for prow building.
2	Chests Malay cutlery, showy.
1	Box of files of sorts, and sizes, a few small grapnels of 1 cwt. each.
	Carpenter's tools, saffron, gambier, curry stuffs, a few leaguers of arrack, liquors, looking glasses, and a tawdry French watch or two; sometimes muskets, flints, shot, powder, saltpetre, &c. will sell; but these are dangerous articles of traffic and ought to be discouraged.

A present of kincob, flowered satin, cut glass ware, or some finery is requisite, to make to the sultan and smaller presents to his relations and a leading datu or two.

Traders to succeed in the Sulo trade, must arrive there, in a vessel of about five thousand piculs, in March, and must remain there at least six months or about fifteen or twenty days before, and as many after the departure of the China junks; a convenient factory must be rented, the price from three hundred to five hundred dollars for the season, but that must be agreed for beforehand; the vessel should be a fast sailer to effect her passage to China, and well armed, a force being required on shore. No credit ought to be given and this point fully arranged in the Rumah Bechara; the duties to be levied not to exceed five per-cent, to have only a small quantity of goods on shore at once, and the returns sent off every evening; large purchases of produce though received on shore, to be paid for from the ship, a good look-out kept, and no visitors allowed on board. The friendship and protection of one or two leading chiefs is necessary, and to be indirectly purchased by making them small presents, from time to time, such as Datu Sakilan, Milbahar and Laximana, and also giving the datus a little more for their produce than what you give the common people. A Chinese sorter and a few China and Bugis coolies are positively necessary to choose and pack the tripang and produce; for it is death to any settler or native to give you any information on this head; China coolies are procurable for making baskets (and other rough work) for the pearl shell, tripang, black birds' nest, and tortoise shell; the white birds' nest and camphor must be packed in chests; too much care and precaution in packing your produce cannot be used, to get your cargo sound to China.

The total amount of goods exported from Sulo in 1814 up to the 20th August were as follows, viz. one thousand piculs of wax, five thousand do. mother o'pearl shell, three thousand do. of tripang of sorts, two thousand do. cut betel nut, five hundred do. of black birds' nest, (this takes up much room) thirty do. of white, thirty do. of good camphor. Pearls about twenty-five thousand dollars; besides shark fins, cowries, agar-agar, ebony, amber, rattans, &c. Considerable quantities of goods still remained at Sulo and many trading prows had not arrived. After the departure of the junks and trading vessels in August, the fair is in a manner broken up, the remaining produce is sent to Ilo-Ilo on Panay, or retained on hand for the next season; the datus lying upon their oars until the next season, and the people going in search of produce to the ports on Borneo and the islands.

Formerly ships have down here, and traders were treated with liberality and respect, but since the reign of the present sultan, force is in a great measure the rule of right, and too many precautions cannot be well taken.

The Sulos and resident Chinese are so acute in adulterating goods, that great precaution is necessary in making your purchases. The birds' nests, both black and white, should be invariably purchased loose and dry; those that are tied up, have dirt, fish, lead, and small pieces packed up in them to increase their weight; and the least damp turns this article red, and spoils it. Great care is required in packing this article from damp, and to prevent its breaking, which lowers its price in China; that which is white, large, thin, and without feet at the edges, is best.

The camphor, they adulterate with rice and a soft crystal found at Sulo, much resembling camphor barus; when taken in the hand it should leave no dust behind, and suspicious pieces, sparkling bright, should be tried by a candle; if it burns it is camphor. The larger the pieces the better, and that sort with dust should be washed white and clear of impurities.

They mix the tripang, white and black, old and damaged, and bring it wet to increase the weight; care must be taken to separate them, to reject the rotten which breaks and appears rotten, while the good is tough and pliant; if wet, a lower price should be given, and it should be spread out to dry. This article must be packed with the greatest care, as it is very perishable; the least wet ruins it instantly; and if there is one rotten one put in the basket, it spoils all the rest; with the utmost care in the packing it can only be preserved four months without repeated airings in the sun; when slightly damaged, it must be boiled over again and dried in the sun.

In tortoise shell, the thicker, the whiter, and the weightier the bundle, the more esteemed in China; the thin flexible pieces should be rejected.

In the pearl shells, the dead ones are of a heavy white opaque color, and should be rejected and cleared of the mud and dirt before weighing. There is a great wastage in this article, and it should not be moved often. It takes up much room, and is but indifferent ballast.

The pearls are from one kampow to fifteen the carat weight, or rather the chuchak, by the China ivory scales, agreeable to the size, roundness, smoothness, whiteness, and brilliancy; a small flaw is a great deduction from the value.

It is customary and prudent to settle the price of your goods before the sultan, and to procure your scales from the datu Molok to prevent serious disputes; for the use of the latter, you pay him the usual fee of forty dollars. Make a point of never altering your own prices, and fixing the value of theirs according to the price paid by the China junks, which you may ascertain by your China sorter. Upon this price you may give twenty-five per cent. additional; otherwise you will have eternal bickerings and disputes.

Some English vessels not wishing to remain for the season, open a shop in the Sultan's palace from twelve till sunset: the prices are fixed on both sides, but by this method, it is impossible to sell much. The cargoes are so slender and come in so slowly and the traders requiring a mixture of China and Indian goods, that a cargo cannot be sold by this method; besides all the small traders dislike selling in the palace; so that when the datus get supplied the traders drop off.

The other commercial articles, which are sometimes met with at Sulo, are as follows: gold extremely fine and in large quantities is procured from the Sulo possessions on Borneo and were the trade any where regular, might become an article of importance; at present, it finds its way to Java, Macassar, Pinang, &c. Sago of a very superior quality and in considerable quantities, and canes and rattans to any extent might be collected from Borneo. Pepper was formerly cultivated not only on Sulo but on various parts of their dependencies on Borneo; this branch of their industry is totally neglected from the want of vend. The capas or cotton is abundant on all parts of Borneo; it is of a superior quality and considerable quantities might in time be obtained, at a moderate price.

Sapanwood, kayu laka, ebony, cassia, and cinnamon, with various dye-woods might be procured to any extent if required, while sugar, coffee, ginger, turmeric, indigo, saltpetre, succeed here extremely well, but cannot at the present moment come under the head of articles for exportation. Ambergris is generally procurable here, and might be encreased if looked after. Dammer, earth oil, kima shells may be had in any quantities, and three or four thousand piculs of *cowries*, could be annually procured at two dollars the picul, if contracted for six months before. *Lac* is sometimes offered for sale, as also *civet, bezoar,* and it is said *sandal* wood. The Manilla *rope* and *gamutty* are abundant, and lastly large quantities of *coolit lawang* or clove bark from the Bornean shore; this is a species of the sassafras tree, though differing from the laurus sassafras of America; it is of a greyish cast and the bark on the tree is smooth; when peeled off, it becomes rough and shrivelled, of a deep red within; that from the bottom of the tree has a strong clove like smell and taste; an essential oil is extracted from it of a very excellent and penetrating quality, similar to the oil of cloves, called the *miniak coolit lawang*. The Dutch at Amboyna prohibited individuals from expressing it under a penalty of five hundred rix dollars.

Of the population in the interior, the Cafrees or Papuans hold the mandates of the sultan and Ruma Bechara in the highest respect, and pay some trifling tribute; they were formerly brutal and ferocious to the last degree, and the Bisayans or orang Sulok decapitated them wherever they could; but since their conversion to Islamism this barbarous practice has ceased and the Papuans also have lost much of their ferocity. I never saw one of them at Sulo or Soog; they exchange the products of their hills with their neighbours for such articles, as they most require. There are said to be a race of cafirs or unconverted Dayaks in the interior, who differ no wise from the Biaju at Benjar; they are tattooed like that tribe. I never, however, saw one of them.

There are likewise said to be numerous runaway slaves professing the Christian religion in the interior, who were originally kidnapped by the pirate prows of Magindanao and subsequently purchased by the datus, but holding the faith of their masters in abhorrence and panting for liberty, have sought it in the interior, where the sultan and chiefs have no power or control.

The Sulos assert that the majority of the people in the interior are moslems; the Spaniards say on the other hand that they are chiefly Christians; I rather conceive the former to be the fact. However this may be, the people of the interior (Papuans excepted) are at open war with the Sultan and town's people, who have grounds of serious complaint against them—the towns' people being in the constant practice of plundering their cattle and effects, and massacring those that oppose their predatory pursuits. During my residence at Sulo (six months) they twice besieged the Sultan's fort and inflicted retributory vengeance on all those they could lay their hands on; should the people of the capital be ever attacked, they have no hopes of any cordial co-operation or support from the majority of the interior.

The Chinese residing at Soog, are generally of the poorest class that work their passage to Sulo in the annual junks and are for the most part given to traffic. They keep shops in the town, some in the trading prows, others carry on the pearl and tripang fisheries or bird's nesting, but directly they scrape together a small competency they return to their native shores. They are under the command of three China captains, who have a seat in the Ruma Bechara, but I believe no vote. They complain bitterly of the tyranny, oppression and exactions of the datus, and would consider any change as operating an improvement of their condition; their want of enterprise and characteristic cowardice would prevent any active co-operation in the event of an attack against the government; but they would subsequently become useful and industrious subjects.

The principal force of the sultan and datus consists of their personal slaves (bambar,) Christians purchased from the pirate prows; these constitute the bulk of the population of the capital; but seldom become thoroughly reconciled to the change in their condition, from freedom and friends to foreign slavery. Annually, hundreds of them effect their escape to the Philippines or into the interior; no very cordial support therefore could be looked for by their Mahomedan masters, from these their main strength. I am convinced, one Spanish padri in his sacerdotals holding up a crucifix, would whistle them over like a huntsman his pack. And if a reconciliation does not speedily take place between the two rival sultans, one half of the island may be said to be in a state of hostility with the other. Under such a state of things, a force of two hundred Europeans and a cruizer would have turned the scale in favor of the invader and retained it against every effort, but that of *treachery*.

The most industrious and useful race of men about Sulo and the circumadjacent islands, are the *Bajows* or orang laut: to these men Sulo is principally indebted for her submarine wealth. They are hereabouts, stationary at their different islands; those at Macassar are itinerant. Capt. Carteret mentions having seen a hundred sail of them from twelve to twenty tons burthen at Bonthian under Dutch colors; Capt. Forrest, in the straits of Macassar saw a large fleet of Bajows from five to six tons burthen each, with women and children on board pursuing the tripang fishery.

Some authors have supposed this race of men, as originally from *Johore*, others from China or Japan, and I formerly conjectured they were Buguese, from their considering Macassar as their home; but on making very particular enquiries upon the subject, I was informed they are really the orang Salak of the east of *Subanao* and *Lutas* and called *Bajau*, signifying in their language fishermen. They speak the same language as the Sulos, and are mahomedans. The oppressions practised on them by the datus in forcing them to labor for their benefit, and the prohibition of the junk trade at Magindanao and many years at Sulo, by which they were prevented from selling their produce, compelled them to resort to Macassar and to make that the centre of their annual operations.

The other race frequenting and inhabiting the Sulo islands, are called Lanuns, or a race of men living solely by piracy from the provinces of Illana and Lanaw, situated on Magindanao to the northward of Bongo Bay; their roving depredations are directed in large fleets of small prows in the straits of Macassar, among the Moluccas, but more particularly in the southern parts of the Philippines; the whole produce is sold at Sulo, which is the grand entrepot. Those that are settled at and living under the government of Sulo, I shall specify under the head of piratical establishments.

There are two wooden forts at Sulo, and one stockade: the former are about thirty feet in height of a quadrangular form; the walls consist of two rows of piles, with their interstices filled up with coral rocks (kurkulla stones;) one of them is situated on the west side of the other river, having five guns mounted on its ramparts; the other, the palace fort, stands on the east side of the river and of a similar construction, with small gateways on the west and east sides; this has nine guns mounted and embrasures for about twenty additional. The stockade is about one third of a mile east of the town but without any guns. They are in possession of fifty large guns of different calibres (plundered from Balambangan,) one of thirty-two, the remainder either twenty-four, eighteen, twelve, or nine pounders, the whole indifferently mounted or without carriages strewed about in all directions. The datus have also cannon concealed in their houses; Datu Sakilan, the king's younger brother, has mounted in the front of his house within the palace fort six brass three-pounders: Datu Johan on shore on the west side of the river, four iron three-pounders; Tuan Laxamana (of Buguese extrac tion) three-brass four and six-pounders; Datu Milbahar, east of the palace f three pounders, and Datu Molut, seven iron six-pounders. Before the Sulta nine iron and eight brass twelve-pounders; all these guns have the honou Company's mark on them; some were plundered in the massacre of 1775, the at Balambangan.

The piratical establishments under Sulu are as follows: *First*—In the t Soog (the capital) in the campong Suhyan, there are six hundred Illana pirate Maukbilul, formerly of the island of Burballa, and Datu Bukan from Magindan twenty large prows exclusively employed in predatory pursuits. *Second*—At east end of Sulu, there are fifteen hundred Lanuns under the command of Raja with about thirty prows expressly employed as rovers. *Third*—On Pulo Tungan between Sulu or Soog, and Bohol, there are three hundred Lanuns. *Fourth*—On Pulo Tauka, up a small but deep river fortified with ten guns, under Datu Timbing, five hundred Lanuns and ten prows. *Fifth*—On the Island of Palan, (near Sambooangan) there are three hundred pirates and ten prows protected by a small fort mounting two or three guns. *Sixth*—On Pulo Tawi Tawi, there are three hundred Lanuns. *Seventh*—On Similout, there are seven hundred pirates. *Eight*—On Pantutaran, are three hundred ditto. *Ninth*.—On Palwan, at a town called Babuyan, on a large river fortified with twenty guns, are six hundred pirates and twenty large prows. *Tenth*—On Pandasan, a hundred pirates. *Eleventh*—On Basilan, three hundred; At the port of Malusa on this island, they cut off the watering party in H. M. S. *Fox's* launch, in all twenty-five Europeans; they sent a number of women down with arrack and fruit for sale, and whilst the sailors were fondling and caressing them, overpowered with liquor, they were surrounded and made prisoners. *Twelfth*—At the port of Tantali, on the Celebes, there is likewise a great piratical establishment, governed by Sultan Mahomed Kubu; the town is fortified with three hundred guns and three thousand Illana pirates and fifty or sixty prows. This with the piratical establishments on the island of Magindanao, are intimately connected with the Sulu government, sharing their spoils, disposing of their booty, refitting and obtaining their supplies from the Sulu datus, whilst the others, from one to eleven, are actual dependencies of the Sulu government.

The share of the booty reverting to the Sultan and Ruma Bechara is twenty-five per cent on all captures. They must respect the Sulu flag and pass and commit no depredations on vessels actually at an anchor in Soog roadsted. The Datus advance guns and powder, for which they are to be paid a stipulated number of slaves.

Sulu is not only the great commercial mart of all the surrounding ports on Magindanao and the Celebes, but the capital of a great portion of Borneo and all the contiguous Islands. It is the nucleus of all the piratical hordes in these seas, the heart's blood that nourishes the whole and sets in motion its most distant members; so that if the extirpation of piracy should be considered a desideratum by the British government, the blow must be struck here, the subordinate establishments burnt, and the Lanuns dispersed; then the great mercantile advantages to be derived by the commercial interests in India, will be sensible of the real value of these productive tracts and the advantageous trade to be derived from them. Commodore Hayes in 1801 or 1802 (vide Asiatic Register) fell in with a fleet of four hundred sail of these Illana pirates among the Moluccas and succeeded in capturing or destroying a prodigious number of them.

The depredations committed by these pirates during the six months we remained at Sulu, (as far as came to our knowledge) were as follows, viz. One Spanish brig from Manilla, laden with sundries; twenty smaller craft, captured among the Philippines; one thousand slaves kidnapped from the Spanish islands and sold at Sulu; one large padd-wakan from Macassar with sundries; the Dutch ram samder ransomed by Capt. Peters of the Pinang brig *Thainstone*, for twelve hundred Spanish dollars. Five or six smaller craft under English colors captured among the Moluccas. The boat's crew of a brig under English colors, (name unknown) supposed to belong to Mr. Lackersteen of Bengal, consisting of one European and six lascars, were seized twelve miles of Sulu town as they were filling water and the whole of them murdered. By the exertions of Sultan Adanang of Purang, I recovered the lly-boat, two cutlasses, two water-barrels, and a small English jack, which were made over to the Honorable Company's gun-boat no. 7. There were doubtless many other depredations, but which did not come to our knowledge, as not a day passes without the arrival or departure of a least twelve to fifteen pirate prows.

The small pox commits as many ravages here as in any part of the world for the extent of its population. It is held in the greatest fear and dread, and whenever it breaks out the doors and windows of the house are ordered to be closed up, no person allowed to go in or its inhabitants to communicate with the other inhabitants; if it rages extensively all business is at a stand and the people fly to the other islands. One half of the whole that get the infection die with it: inoculation or vaccination is totally unknown to them and its effects are aggravated by improper treatment. Almost all the inhabitants are afflicted with cutaneous eruptions; the *kurap* or ringworm is almost an universal disease, and almost one man in twenty is afflicted with leprosy; some of them in a horrible degree. It is no uncommon sight to see them peeling off the scales, rolling up the dead flesh and pelting it off like bullets; it is not supposed catching, as they mix in society; it however wastes them away by degrees and is supposed to be incurable; some attribute it to a poisonous fish which the natives eat, others to sleeping and walking upon their nibong floors. The intermittent fever and the flux and dysentery at some seasons of the year are prevalent, but not considered dangerous. The lues is a disorder I never heard of here; although many complain of what I conceived to be ghonorea. The rich apply to the Chinese doctors for assistance, the poor, like the Malays, have recourse to approved recipes from time immemorial, treasured up by each family, consisting of vegetable simples. These are the only disorders that have fallen under my observation. As the air and water are good and wholesome, the scite of their habitations elevated and dry, clear of jungle for the most part, Sulo in every other respect must be reckoned a most salubrious spot. Much of their present disease arises from filth, from deleterious food and excessive addiction to the fumes of opium.

From the great fertility, the extended population, the valuable commercial products of this delightful island and its valuable possession on Borneo, the Spaniards since their first settlement at the Philippines, have always cast a longing eye over these possessions; from the year 1568 until the 14th of April 1664, they made repeated attempts to settle all the Sulo islands as well as on the main of Borneo; but in the latter year, a peace was concluded between the Sulos and Spaniards on the mediation of the Sultan of Magindanao, in which treaty the Spaniards declared them to be an independent nation, and withdrew from all their possessions on Sulo which they had conquered. The other powers having been alarmed at the encroachments of the Spaniards, particularly the Dutch, it was provided by the treaty of Munster, to restrain the navigation of the Spaniards to that of the Philippines and it was expressly stipulated by the contracting parties, "that the Spaniards should maintain their navigation in the manner it at present was, without being able to extend it further in the East Indies";—at this date they had no footing in the Sulo isles. In contravention to this treaty, during the last century, they made two attempts to settle, but were each time cut off, as has been before observed. On the capture of Manilla in 1762 and 3, Sulo and its possessions were fully ceded to the English East India Company. In 1773, on the establishment of Balambangan, still recollecting the recent capture of their capital by the English, they were much alarmed to find them such close neighbours, and were determined either by the Sulos or by main force (in violation of every treaty,) to oust us before the infant settlement acquired a strength too great for their opposition. The recent establishment of Balambangan in 1803-4, however, has put the question at rest, and whatever may be their disinclination to it, our right to form an establishment cannot be disputed.

Notwithstanding the treaty of Munster, however, they always carried on a trade with Sulo until 1813, when Capt. Don Alonzo was murdered by a slave of the orang Kaya de Gadong, some of his crew made slaves, and the Spanish vessels obliged to cut and run for Manilla. In 1814, in consequence of this there was no trade between Manilla and Sulo, except by means of the Chinese.

I saw the governor of Manilla several times upon the subject of communication from the Java government to the governor of Sambuangan; he expressed no surprise or dissatisfaction at the English settling at Sulo; on the contrary he expressed his wish, ha sufficient, to have co-operated with the English in the extirpation of piracy the inhabitants having suffered terribly by their predatory pursuits, but it evident from some observations that fell from the secretary, the governor and several gentlemen at Manilla, that the English might do what they pleas its possessions, but that Magindanao was considered a part of the Philippines, restored to the sultan; it was under an express stipulation, that his majesty s or permit the introduction of any Europeans without the express consent and Spanish government.

The Sulo dominions on Borneo, as ceded to the English East India Com from Kimanis the north near Borneo proper, to Cape Kaniongan in the straits of Macassar. They are divided into four districts; viz. First, *Pappal*, which is the district adjacent to Borneo proper, extending from Kimanis aforesaid to Tanjong Simpanmanjio or Pirate's Point. This district though claimed by the Sulos, actually acknowledges the supremacy and government of the sultan of Borneo proper, for they pay no tribute, nor do they trade with the Sulos except at the pirate ports of Tampassook, Tawaran, &c. and I believe it never was properly subjected to their government. Having already described it in my report on Borneo, I have no further particulars to communicate in this place. Second, *Maludu*, or Kini Balu, which includes the provinces of Paitan, and Labuk, and extends from cape Simpanmanjio to the west end of Sandakan harbour. Third, *Mangidora*, from the above limits west (Towson *Duyon*) to the river Tawao opposite to the island of Sibattuk. Fourth, *Tirun*, which extends from cape Kaniongan to the river Tawao beforementioned.

Maludu, is considered by the Sulos as the most fruitful, populous and valuable district on all Borneo; the bay is more than thirty miles deep, the eastern side of it is full of coral shoals, in other respects the chart by Barino in Dalrymple's collection, is tolerably correct, with the exception of a rock which Capt. Deane (H. C's. ship Malabar) informs me lies nearly midchannel, with only one fathom on it, and which in day-light may be perceived from the discoloured water upon it. There are two principal towns situated up the rivers, that fall into this bay; one called *Sungy besar* on the west side; the chief is Sherif Mahomed; it contains eight hundred islams, is situated a mile up the river, has a small stockade and acknowledges the authority of the Sulos. The other on the east side, called *Bankaka*, is under three Orang kayas, who nominally acknowledge the authority of the sultan of Borneo proper; it has seven hundred islams, and lies about eight hours pull up the river; on the east side of Bankaka, a large coral shoal extends out, which forms a sheltered roadstead for shipping; on the west side, there is a fine fishery of pearl oyster, called the Capis, the inhabitants however only go up to their middle in water, and pick up the oysters by hand; no dredges or divers are used.

There are many rivers of fresh water which fall into this bay and which have good soundings at their entrance; the land and sea breezes prevail pretty regularly and permit the easy egress of vessels in and out of the bay. On arriving at the anchorage, it is necessary to fire a gun; on which a fishing boat is sent out from *Sungy besar*, for no signs of habitations appear from the vessels. The other towns with a small population each are Bawangun, Tandik, Malasintin, Sipuni, Kudat, Tambalulan, Pangalian, Malubang; much pepper was formerly planted here.

The whole of this district abounds with excellent rattans from ten to twelve feet long, and two or three Indiamen of the largest size, might annually lade with them; the inhabitants will contract to cut them down for a trifle. Abundance of rice is grown inland; the English erected a stockade and established a grain magazine on one of the branches of Bankaka river for the supply of Balambangan. The orang Idan are very numerous in the interior of the country. There is much coolit lawang, or clove bark, and sassafras grows here, but the district is most remarkable for the fineness and quantity of its excellent camphor barus, superior to any in the world and preferred in Japan and China to the camphor of Sumatra. The whole of the islands and coast abound with turtle of the species so valuable for their shells (paykan,) and considerable quantities of wax may be collected. The orang Idan will give, I am told, one bamboo of their best camphor, for one bamboo of salt. In

1814, the imports from *Sungy besar* to Sulo were five piculs of first sort camphor, five do. of inferior, twenty-seven piculs best black birds' nests, two do. of white, fifteen do. of cotton wool, ten do. of wax, a considerable quantity of rice, rattans, and attaps and about twenty catties of caple pearls.

But what renders this part of Borneo so valuable, is the easy land-carriage of about forty five miles leading to the great lake of Kini Balu, which considerably exceeds in magnitude the great lake of Manilla: it is the source of many of the great rivers on Borneo, is five or six fathoms deep in some parts, interspersed with small islands. The water is of a whitish hue, but perfectly salubrious. On its banks are situated innumerable towns of orang Idan, employed in the cultivation of the soil, who are governed by a raja or king of their own; but as I have already given a description of this district in my Bornean report, it will not be necessary here to repeat those particulars. It may however be here observed that the Dayaks would prefer bringing their produce to *Sungy besar* were a regular trade established there: at present they go all the way to Banjarmassin or at least to some of the great towns near it. There is also a good road from Bankaka to Sandacan. In the *Harrier* we obtained bullocks, fowls, river fish, turtle, and fruit, equal to our wants, at a moderate price from old Sherif Mahomed. On entering this bay, the gigantic mountain of Kini Balu majestically rearing its lofty head over the circumjacent Alpine scenery to a stupendous height, cannot fail to strike the observer with admiration and awe.

Paitan is a bay and river between Maludu and Sandacan, but its situation is by no means well ascertained; it is governed by orang kayas and subject to Sulo; it is remarkable for the vast abundance of the finest camphor in the world, plenty of lissang, and yields great quantities of clove bark, or coolit lawang, besides the above rattans, wax, rice, which are annually imported into Sulo; but the whole coast is so full of islets, reefs, and shoals, that no vessel ought to attempt it. The *Harrier* trying it in 1810, was wrecked forty miles due west of the peak of Keygayan Sulo. In all the numerous islands adjacent to this coast, the paykan, or tortoiseshell species of turtle, abounds in the greatest possible quantities.

Soogoot is a considerable town situated on the river of the same name and acknowledges the government of Sulo; it is governed by orang kayas and its river take its rise in the lake of Kini Balu: the products are precisely the same as those of Paitan, and six or eight large prows are constantly employed in bringing the produce to Sulo.

Labuk is a large bay not very well known, it has a number of coral banks, there is a town of the name Ann; somewhere here the Spaniards originally formed an establishment under the name of St. Anne's bay; it is governed by chiefs of its own, subject to the authority of Sulo; here are five hundred Islams and a hundred orang Idan; the produce as imported to Sulo in 1814 was fifteen piculs of cotton wool, ten do. of bees' wax, one thousand bundles of rattans, twenty catties of lime of the best sort, and some other trifles.

Sandacan is one, of the finest harbors in the world or rather an assemblage of harbors with soundings and shelter for the whole navy of Great Britain, and has been surveyed by British vessels; vide Dalrymple's collection of plans. It is completely under the control of the Sulos, the present sultan during the lifetime of his royal father, was chief of the district. The river Sandacan or Sa Panchia is a small stream, not more than five fathoms broad, it disembogues itself into the harbor and the town is situated near the quala or mouth. The chief is named Tuan [illegible], with a hundred Islams, & there are many orang Idan in the interior parts: There is a small mud fort mounting three large guns, five smaller of brass, thirty rantakas and sixty muskets. Its annual products, when the Sulo people come over in numbers, & chuse to exert themselves, are fifty piculs of white birds' nest, which cost them seven campows or dollars the catty, two hundred do. of black, of different qualities and prices, three piculs of camphor first sort at twenty campows the catty, three piculs of wax, caple pearls in abundance, five catties yearly if looked for, and fifty piculs of tripang of a particular small species. It is the practice of the industrious datos and chiefs to proceed to this place with all their slaves for the season; in which case, they are sure to make great profits; formerly the birds' nest-caves in this district were considered royalties, and the produce was immense; at present they are plundered ad libitum and the quantity decreases every year.

Towson Duyon is another small population hereabouts, under the command of a panglema; it has a nakils or fort of three guns, and is peopled with a hundred Bajow or fishermen, employed in catching and curing tripang; they obtain about fifty picals annually; some paddi is produced here, but none for exportation; there are but few orang Idan near this.

Pulo Loobuken a small island near the above abounding with cocoanuts, but has no population or other commercial products.

Domandoung has a small river & a few fishermen. *Sigalluwood* has a large river which prows can enter: there are here ten islams and eighty orang Idan, and the town is close to the river's mouth.

Loo Loo is a town situated on a small river; there are thirty or forty Bajow or fishermen employed in catching tripang; twenty or thirty picals are cured here annually.

The island of *Bahilatolis* unites the harbours of Sandakan and Mananyong; on the interior side of the isle a ship may careen, there being eight to ten fathoms water close to the shore, with an excellent stream of fresh water falling into the sea over the cliffs; it yields a few catties of birds' nests annually, remarkably white, but they are not so much esteemed by the Chinese as those from the main.

The province of *Mangidora* forms the north eastern part of Borneo, extending itself towards the Sulo Archipelago in a long narrow point named *Unsang*, or cape Misfortune. The whole of this district yields very valuable articles for commerce and in considerable quantities, birds' nests, black and white in great abundance, camphor, elephants, cattle, dammer, wax, lackawood, rattans, and great quantities of the purest gold in lumps and dust of a very soft pliable texture like wax, &c.

The north coast of *Unsang* is indented with several bays, but none which afford shelter for shipping during the northerly monsoon; there are on this coast thirty large rivers from Tambesan to Sandakan, all of which with the exception of Moraok are branches of the Kenabatangan river, forming as it were, a delta to the main stream, which takes its rise from the great danow or lake in the vicinity of Kini Balo; the four most westerly branches are the most considerable, particularly that of Towson abai; the bar is shallow, but within, it has depth enough for the largest ships; the Sulos say it is capable of being turned into the harbour of Mananyong, which would remove the obstacles of the bar and render it one of the finest rivers on Borneo.

Keni batangan is so called from kani the usual name for a Chinese, and batangan a river in the Idan language; an extensive colony from that nation having been formerly established on its banks. The town so called, is seven days pull up against a rapid stream and it takes three days to turn. It is defended by a fort constructed with piles of wood three fathoms thick, the interstices being filled with mud, and mounts twenty-four large guns, twenty of which are of brass. The chief in command is appointed by the Sulos, he is named Tuan Mala: the population of the town is thirty islams and a hundred orang Idan, but higher up the river, there are many large negris of orang Idan and population encreases the further you proceed up. Birds' nests in a good season, thirty picals of white and a hundred of black, a little wax, much rattans small and large, gold plentiful if searched after; at present the Idan procure no more than ten catties annually; considerable quantities of paddi are raised by the Idan. There are many elephants and rhinoceroses. About thirty prows trade here from Sulo every season.

The whole of the eastern parts of cape Unsang abound with wild elephants which are not found in any other provinces of Borneo, though originally imported from Benjarmassing, with extensive herds of wild cattle which have greatly multiplied from a breed left here by the Spaniards who removed from the port of Borneo in 1668.

Tambesan is a small island, forming a harbour with the main, somewhat similar to Pulo Pinang, on the north east Cape of Unsang, & is capable of receiving ships of the largest size, sheltered from every wind. The main yields abundance of the finest timber, particularly the Alexandrian laurel, many of which are said to be from two to three fathoms round; good water is to be had and the soil on both sides is fit for cultivation, but at present there are no inhabitants.

After this, towards Giong, are several rivers, but the account of them is lost, viz. Subalt, Tancoo, Mabung, Babala, the country here abounds with wild cattle. *Salurang*, Lingbang.

and two others (names unknown) abound with shoals and have never been surveyed by a British vessel.

Gioeng river is situated on the north-west part of the bay of that name; there are considerable quantities of blackish birds' nests here procurable. *Pulo Gaya*, off this coast, abounds with deer, [illegible] with abundance of green turtle. There is also a species of birds' nests like driven snow found on Pulo Gaya and much tripang is collected about the bay. *Gunong Madai*, near Gioeng, has a birds' nest cave and a remarkable high mountain called *Bud Salam*.

The southernmost point forming Gioeng bay, is called *Timbun mata*, (near Sabahan) here is a very large river, & ships of considerable burthen may enter; there are extensive forests of the finest teakwood, about one mile up from the quala; there is excellent water here; wild hogs, and deer abound, and a fine country about it, but no inhabitants reside here. Inland, great numbers of orang Idan and a cultivated country are to be found.

Near this place, though not marked in any chart, is the grand port of the Solos on Borneo called *Sabahan*, situated upon a small river of considerable length & it is five days pull up to the negri. The chief here is Datu Sapindin, a nephew to the present sultan of Solo. There are here one thousand islams eight hundred orang Idan and cafirs; a fort of piles mounting forty-five large guns; white birds' nests of a superior quality to any in the east, thirty piculs at nine compows the catty, one hundred do black of a superior kind at four hundred the picul, five do. of camphor barus first sort at twenty the catty, three piculs of wax, considerable quantities of capis pearl oyster procurable about the banks adjacent. Of the tripang about forty piculs is fished yearly; much paddi grows here, rattans, and herds of wild elephants. The Islams here, being for the most part Buguese, give this place more of a commercial turn than those before mentioned.

Tidong, though its situation is not marked in any of the English charts, is of considerable commercial consequence. It is governed by the Pangeran besar. The river is large, two fathoms on the bar at high water. Here is a small fort with seven or eight large guns under Solo. No Buguese—Islams two thousand,—and an immense population of orang Idan in innumerable negris up to the very source of the river. The commercial products are wax, three hundred piculs, gold about one picul, two piculs of the finest camphor, fifty catties of superior white birds' nests, which fetches seventy-five dollars the catty in China and is expressly reserved for a *bonne bouche* for the Chinese emperor, one to two hundred piculs of black nest, much rattan, and abundance of *paddi*; some tortoise and tripang are collected here also.

Pilas is a considerable river; the country about it, overrun with wild cattle;—*Cupang* a town near it has thousands of beeves, and some horses.

The last river in Mangidara is *Tawi* of which I have obtained no particular account. The whole of this province, it is said, produced much pepper; but from the slender demand for this article of late years, the culture is discontinued.

The last province on Borneo belonging to Solo, is *Tirun*; the whole coast is, as the name implies, extremely low; the banks of the coast and rivers overrun with mangrove; the mountainous parts a great way inland, where reside the greatest population of the orang Idan. There are in this district innumerable rivers large and navigable, and it is considered a most valuable tract. The principal food of the islanders here abouts is chiefly sago; as it forms the principal subsistence of the inhabitants they cultivate it with the extremest care; the edible birds' nests here are of a superior quality and in vast abundance, gold is found in various parts; the other commercial products are wax, honey, rattans, canes, dammer, bezoar; tripang is collected along its coasts, the capis pearl oyster, and tortoises, &c.

Sibuco is the first river of any consequence, it is very deep inside of the bar, the current extremely rapid and constantly running down, there are shoals at the mouth. It has a small fort mounting six guns, one thousand islams, and numbers of the orang Idan. The produce: fifty piculs of white edible nests are annually collected for Macassar and Solo, one hundred do. wax, canes, and rattans, the finest sago in India, honey, boorey mats. There are many Buguese in this district.

The next river of any consequence is *Sambacung*; it is a considerable stream, deep within, but has flats at its entrance, intersected by islands at its mouth covered with groves of nepas; a part of it is called *Tanna mera Sambacung* so called from the redness of the soil; it has a birds' nest cave which annually yields twenty piculs of birds' nest; the other products are the same as in other ports of this province. It is inhabited by Buguese and populous with orang Idan. After this comes the great and majestic stream called *Tekkoir* or *Leo* and *Leedong*, from the names of two towns so called situated on its banks; it produces much earth oil; inland it is very populous; and much padi is raised by the orang Idan, which is generally exported, the inhabitants living upon sago: there are many Buguese here.

Sicatack or *Lalawang* is a fine bay into which the small river *Talangang* falls on the south side, and that of *Montabuling* on the north; it produces one hundred piculs of black nest and the other *Tirun* commodities. *Bilongan* carries on a considerable trade with Sulo and is governed by a chief from that island; it formerly belonged to *Pasir*; it yields much gold of a superior quality with other *Tirun* produce.

The *Kuran* or *Barow* river is a most magnificent stream, it goes by both names from two towns so called on its banks. Barow is an independent state in alliance with Sulo. The other is subject to Sulo; the river has three fathoms at its mouth, but it is necessary to have a pilot to shew the channel; there is a considerable trade in coconuts carried on from *Tuali* on the Celebes to *Barow*, which they call *Berang*. *Kuran* is eight hours pull up from the bar with the tide; it has a wooden fort with thirty guns of different sizes; they acknowledge the government of Sulo; the chief is named Raja Alum; there are 3,000 Buguese, five hundred Malays, ten Chinese, and an immense number of orang Idan in a whole string of negris. Its produce is about twenty piculs black birds' nests; three piculs of white nest; three or four hundred piculs of wax; one thousand piculs of tripang; ten piculs of tortoise shells; some camphor but not much; cinnamon might be had in any quantity required; they grow abundance of padi: from one to two piculs of gold is collected by the orang Idan, at ten campows for one tale's weight; this gold is of the finest kind called mas tua; kema fish is cured in large quantities, and the capis pearl oyster is found on the banks; kayu lakka & rattans, in ship-loads if required; ivory from four to five piculs annually, some of a large size; ten piculs of amber if looked after; there is also much cotton and the Buguese manufacture sarongs & handkerchiefs to some extent of a very durable quality. They require chiefly iron, opium a little, chelopan or salampores, blue baftas, Madras or Pulicat red handkerchiefs, kalamkari chintz. Sulo vegetable salt, Chinese campows, China ware, &c.

The rest of the rivers in this province are *Dumaring*, a considerable place, the small river *Simantal.* and *Tapean-durian* inhabited by a ferocious race of orang Idan; much tripang or beat is collected about this coast with the other *Tirun* articles. I cannot at present state any particulars respecting the population, &c.

There are two other ports on the coast of Borneo, whose situations I know not and perhaps the names are not very correct, viz. *Pinikund* or *Pinangar*, containing one thousand Islams, two hundred Idan, producing fifteen piculs of cotton wool, one hundred of beche de mer of sorts, six or eight piculs of white nest, twenty coyans of paddi and ten do. of rice. *Munkindra*, having two thousand Islams, five hundred Idan, producing twenty piculs of cotton wool, fifteen do. of wax, three do. of white nest, ten do. of black, one thousand piculs of betel nut.

The islands belonging to Sulo are extremely numerous, as may be seen by Dalrymple's chart of these seas. They are divided into the following groups, viz first Sulo isles, secondly Basilan isles, thirdly Tawi Tawi, and fourthly, the Palwan group or Feilola proper; many of the smaller isles are totally uninhabited with few or no productions, and most of them without affording fresh water: these I shall pass over as their names and situation may be seen by reference to the charts; of those of which I retain any particulars, I shall here subjoin them.

SULO ISLES.—*Bankungungaw*, a high woody isle, rocky and barren, a few fishing huts on the south side.

Tubyan, a high island and was formerly thickly peopled and abounded with cattle, fruit-trees, &c.; it was destroyed by the Spaniards in their last expedition to Sulo; the shore is steep and the bay commodious and secure for a few ships; vessels of any size can careen here, the forests abound with excellent timber, particularly the Alexandrian laurel of the largest size, the poon and dammer trees; the island is indifferently supplied with fresh water. Indiamen in fleets have anchored here, and in 1811 the *Africaine*, Hon. Capt. Rodney, was here.

Kapul is larger than the last, is inhabited, produces much paddi, abounds with deer and has plenty of the finest timber for ship building; it forms a harbour with the main and affords shelter for small craft.

Pata has many inhabitants as already described, it abounds with cattle; saltpetre is collected from three pits of extremely white earth yielding one eight of saltpetre; the Spaniards were once in possession of this island.

Patean, a high island on the east side towards Sulo, it has an elegant cove with deep water, completely land locked and affords shelter for ships of the largest size, it affords also excellent wood and water.

Tapul is a high island well inhabited, abounds with fresh water, cultivated in every part to the summit of the hills, yields paddi and yams and was in the possession of the Spaniards.

Siasi is a high island covered with wood, it is well inhabited, supplied with abundance of fresh water, much beat or tripang, called siasi after the island; cowries can be collected here yearly to almost any extent. This once belonged to the Spaniards.

Pangutaran—this island is ten miles in length and is an entire bed of coral rock, with a light soil upon its surface and that so scanty that the dead are obliged to be sent to the contiguous islands to be buried; it however abounds with fine timber trees and grass, and the finest cocoanuts, which is of infinite benefit to the inhabitants as the water here is of a very brackish quality. This island was formerly settled by Spaniards, who have left a large breed of cattle, hogs and goats on it; there are no harbors and scarcely any anchorage near it, the shore being steep. The chief town is called Maglucan, situated on the east side; it is under the government of Orang Kaya Mallik who resides at Sulo; here are nine hundred Islams. It yields seventy piculs of black birds' nests, thirty do. of beche de mer white and black, twenty do. of cotton wool, ten do. of wax; there is also a small village called *Bayt Bayt*: there are many Illanu pirates here and most of the Islams are the humba or slaves of Orang Kaya Mallik.

Ubean or *Uby* is the largest of the isles near Pangutaran; it is said to have several creeks through it, has five hundred Islams, and yields forty piculs of agar-agar, ten do. black birds nests, and three of white.

Pandukan is a low and woody island, it is inhabited, and has anchorage off the south point; the Bajows here are chiefly employed in the tripang fishery.

Tubigan is a small woody island and is remarkable only for being the sole island that yields fresh water from Sulo to Pangutaran.

Bubuan has a few Bajows employed in the fisheries.

Marungas is high and rocky and has some fruit trees on it; it yields no fresh water, which is taken over in boats from Sulo; here are yams and garden stuff planted in the rainy season; salt is also manufactured here.

Sahakon Balod has a salt manufactory and a few people residing upon it; here are also yams, &c.

Tugbuhas is a cluster of low islands with a few Bajows employed in collecting beat or sea slug.

Sama Laut isles are inhabited by a considerable number of Bajow people, who collect the produce of the adjacent seas; considerable quantities of tripang and pearls are brought from hence to the Sulo market: there are plenty of cowries here, tortoise shell, and some tripang; most of these isles are destitute of water; here is a considerable establishment of Illanu pirates or Lanuns.

BASILAN is the largest island in the vicinity of Sulo; in the centre it is hilly, the sea coasts are low and woody; it forms a narrow strait with the coast of Samboangan; formerly it was considered the garden that supplied the Spanish garrison with fruits and vegetables, but it has lost much of its former importance and population from the state of warfare between the Sulus and Spaniards. The principal port is *Malosa* on the south west side, where ships occasionally touch for fresh water, and *Gubawang* on the north east coast. It has a very pleasing appearance from the sea and has in former ages been of more importance than what it now displays; its soil however supplies the Sulo market with considerable quantities of paddi; there are fifteen hundred Islams on the island subject to Sulo. The produce is twenty peculs of black birds' nests, three hundred of kulit tepoy, a few pearls, some tortoise shell and twenty or thirty prows of paddi which constitute its annual exports to Sulo; cowries are extremely abundant and might be collected in large quantities, and there is said to be some gold here. The tides round Basilan are extremely rapid particularly during the springs. The pirates or Lanuns frequent the creeks and rivers round this island.

Pilas is next in size, it is tolerably high, has a good harbor on the south side; there is no good water to be found on the island; it has a small fort mounting two or three guns with three hundred pirates and ten prows.

The *Sangboys* or *Slaves' Ears* are two high islands overrun with wood and are said to have plenty of fresh water, though there are no inhabitants residing upon them. The tepoy hereabouts is of a remarkably large size. There are also pearls of a large size and extremely valuable, but from want of Bajows, the depth of water and innumerable sharks and sea monsters, the fishery is not carried to that extent its importance would warrant: there are some dangerous coral reefs hereabouts, on which the ship Griffin was wrecked in 1762.

Dassam is low and woody, some of the timbers growing here are of very large dimensions; ebony is to be had here in abundance as well as in all the neighbouring islands; here are also abundance of cowries and the kaman or gigantic cockle.

Tawi Tawi is the third in size of the islands forming the Sulo range; inland there are some considerable hills; and in the interior there are two lakes, one named *Lanun Tungany* with an island in the centre, which is the retreat of a number of fugitive slaves from the Sulo datus; the other called lake *Dungan* was formerly the residence of Sultan Badarudin and may be yet deemed the capital; two rivers fall into this lake and the coast between them is a steep rocky cliff; this lake is fresh at low water and has eight fathoms, the river leading from it to the sea has five, six, and seven fathoms, but on the bar, which is of black sand only, one and three fourths at low water and about four in the heigth of the springs. This place has been pointed out as a capital harbor and round the lake a site for an extensive settlement; the island is however but thinly inhabited for its size and importance. The population of *Tawi Tawi* is eight hundred Islams, chiefly the slaves of Datu Mulut Mandarasa and Datu Adanan. It produces annually for the Sulo market three hundred piculs of kulit tepoy, forty do. of beche de mer white and black, ten do. of black birds' nests, two do. of white, and some very valuable pearls: here are also about three hundred Illanu pirates under a Magindanao chief; it is supplied with grain from Sulo for the Bajows and fishermen; the other towns are *Bud Sepang*, *Bud Bus*, which are inland on the hills, *Becha Becha*, *Sibango*, *Towson*, *Mangulick*, and *Laba*.

Towson Dulang Dulang, adjacent to *Dungan*, has very many large pearl oysters; the chain of islands on the south east of Tawi Tawi are all low isles, with an infinite number of shoals between them and it, through which the channels have six and eight fathoms, but are extremely intricate and so narrow that the Chinese junks in some places require to be pushed on with poles: the most valuable pearl fishery is in these straits, which are accessible at all seasons, and fish of every kind are amazingly plentiful and of large size.

Some of the innumerable small isles hereabouts have a few inhabitants and fresh water, others not;—I cannot describe them minutely but they are all Bajows or fishermen.

The *Tahaw bank*, upon which I have been, is nothing but a base of coral rocks with a layer of sand, extremely low and a few shrubs and trees growing upon it. The pearl fishery around is said to be a very valuable one. It has however no fresh water.

The north part of *Palwan* belongs to the Spaniards; their chief town is on the north east coast called *Tay tay* and is under the government of the Alcalde of *Antique* on the island of *Panay*, and was formerly considered of some importance, but the greatest part of this island is under the dominion of Sulo. The east side of this isle is tolerably well-peopled with orang Idan; on the west side, in the intricacies of the lofty mountains, reside the aborigines or *Papuans*; these two classes are perpetually at war with each other, though the Spaniards at *Tay tay* have found them a timid inoffensive race and ever employed them as soldiers. The want however of the most useful class of natives, the Bajows, prevents them from deriving the full advantage from the noble pearl banks that skirt its shores. The country is described as flat to the bottom of the hills, and no country abounds more in valuable productions; it produces the finest canes in the world, cowries may be had in ship-loads, wax, tortoise, tripang, tanju or gum aneal, of which forty or fifty picul may be had yearly. The principal town here is called *Babuyan*, situated on a large river, fortified with twenty guns, with a population of one thousand Islams; there are here six hundred Lanuns and twenty pirate prows: in 1814 the imports from Palwan were ten koyans of rice, sixty do. of paddi, fifty piculs of tripang, three do. of tortoise, two do. of wax, and some other trifling articles; the other ports are *Ilina, Baibasan, Idravan, Aborlan, Pamanian, Ipolote*, &c.

Bangue, Balabac, and the other islands in this range I have described as far as I was able in my former reports, and I have no further materials to add respecting them; generally speaking, they are very thinly inhabited, overrun with jungle and timber trees, and producing chiefly wax, tripang, and tortoise; these isles too have a very different appearance from the cultivated tracts of Sulo, &c.

Kagayan Sulo, that lies midway between Sulo and Banguey, is moderately high, and has a very delightful appearance from the sea; it is clear of jungle and appears to be in a state of cultivation, with herds of cattle ranging the hills. The town is on the south east side, commanded by a serif under the authority of the Sulus. There are hereabout three hundred Islams. It abounds with paddi, fruit, poultry, and refreshments, and produces about three piculs of white and ten of black edible nests from the two high rocks opposite the road-stead, besides tripang and tortoise collected in the neighbourhood. It is here that the *Harrier's* crew and myself were captured.

Annex MM 35

LETTER FROM ACTING CONSUL-GENERAL TREACHER TO THE EARL OF DERBY, JANUARY 2, 1878

No. 116.

Acting Consul-General Treacher to the Earl of Derby.—(Received February 15.)

(Extract.) *Labuan, January 2, 1878.*

I HAVE the honour to report that on the 16th December there arrived at Labuan the British steamer "America," of 600 tons burthen, from Singapore. This vessel is chartered by or for the use of Baron Gustavus de Overbeck, an Austrian, and Consul-General (unpaid) for Austria-Hungary at Hong Kong, where he has been long resident as a merchant, having previously, I am informed, been in the house of Dent and Co.

The Baron is accompanied by an Englishman, Mr. William Pretyman, as secretary; by Mr. Pryer, also an Englishman, and by Simpson, late a gunner in the British Royal Navy.

The Baron de Overbeck and his staff arrived at Singapore from England by mail-steamer, and there joined the "America," which had been specially fitted up for their accommodation.

At Singapore the party was joined by Mr. Torrey, an American subject, now United States' paid Vice-Consul at Bangkok, Siam, and formerly a trader at Hong Kong, who was the President of the American Trading Company, and in whom, as President, were vested all the rights, &c., conceded to the said Company by the various grants of the Sultan and Rajahs of Brunei, with the power of disposing of them to other parties.

Baron de Overbeck, on arriving at Labuan, waited upon me at Government House, and briefly informed me that it was his intention to acquire all Mr. Torrey's concessions, and that he was acting in conjunction with Mr. Alfred Dent, a member of the British firm of Dent, Brothers, of London, who, indeed, had the principal interest in the scheme; that the object proposed was to "buy out" the American interest, and form a British Company, the main desire being to develop the agricultural resources of the northern portion of Borneo, which, as your Lordship is aware, is considered to be the most fertile part of the island, and well adapted for the cultivation of sugar, pepper, gambier, and coffee, its hills affording at different altitudes the various degrees of temperature requisite.

Concessions have since been obtained by Messrs. Overbeck and Dent from the Sultan which include the whole northern portion of Borneo from the River Sulaman on the west to the River Sibuco on the east, and, to the south of Sulaman, the harbours and coasts of Gaya and Sapangar, the districts of Pappar, Benoni, and Kimanis in the near vicinity of Labuan.

The Sultan of Brunei's territory extends, at the utmost, only to the west side of Malludu Bay, though formerly the Brunei kingdom extended as far as Cape Kaniungan, on the east coast, in latitude 1° north. The remaining territory mentioned in the grants is actually under Sulu rule, and occupied by Sulu Chiefs, and it was only because the districts were mentioned in the original American grants that they are again included, and Mr. Overbeck will now have to make a separate agreement with the Sultan of Sulu for them.

The new lessees thus become possessed of all the best harbours in Borneo, and of those which may be said to command to some extent the route to China, vessels in the north-east monsoon passing at no great distance from North Borneo. The principal harbours are, commencing from the south, Gaya, Sapangar, Ambong, Malludu, and Sandakan.

Not only does this portion of Borneo contain the best harbours, but it also possesses the best soil, and is richest in natural productions, such as bird's-nests (in which the River Kinabatangan is especially rich), camphor, rattan, sago, gutta-percha, &c., and there can be but little doubt but that when explored it will be found to contain valuable minerals; the existence of coal is already known.

If supported by the occasional presence of a gunboat, I think the proposed Company would not have much difficulty with the natives, many of whom would welcome British rule; if this assistance is not afforded them, considerable tact and knowledge of native character would be requisite in the treatment of the coast natives, especially those in the Sulu portion. With the aborigines no difficulty would be experienced.

By the present arrangement the concession to the Americans is cancelled, the Sultan having received the sum of 5,000 dollars in settlement of all claims arising from that concession, while the new grant contains the name of an English merchant of position.

Annex MM 36

LETTER FROM ACTING CONSUL-GENERAL TREACHER TO THE EARL OF DERBY, JANUARY 22, 1878

No. 118.

Acting Consul-General Treacher to the Earl of Derby.—(Received March 25.

(Extract.)

"Hart," Meimbong, Sulu, January 22, 1878.

I HAVE the honour to report, with reference to my despatch of the 2nd January, 1878, that the Baron de Overbeck and staff arrived at Meimbong in the steam-ship "America" on the 16th instant, for the purpose of obtaining a grant from the Sultan of Sulu of the territory in Northern Borneo extending from Maludu on the north to the River Sibuco on the east, which is already included in the grant or concession obtained from the Sultan of Brunei, who also claims these territories; but the Sulus being in actual possession, it was necessary to obtain a grant from Sulu before anything could be done there.

The Sulus claim the country extending from Kimanis to Balik Pappan, south of the Sibuco River, on the ground that it was conceded to them many years ago for assistance they rendered to a Brunei Sultan engaged in a conflict with a rival claimant to the throne; at present, however, the Sulus exercise authority only from and including Maludu to Balik Pappan, while the country between Pandassan and Maludu is comparatively independent of either Sovereign, and that between Pandassan and Kimanis is divided between the Sultan of Brunei and independent Brunei Chiefs.

The Sultan did me the honour of consulting me on the subject of the Baron's request, and I told him that any advice I gave would be given in the capacity of a friend of His Highness, and would bear no official weight, as I had received no instructions from your Lordship in the matter. I informed him that, to the best of my belief, the Baron represented a *bonâ fide* British Company or copartnership, with sufficient capital, or the capacity of raising it, to carry out an undertaking of the kind; and that if His Highness thought fit to make the desired concession it would be well for him to have a

[illegible] Balik Papan, according [illegible] limit of Dutch territory on that coast, though, as I have not with me the Treaty said to exist with Holland confining its right to colonise in these seas within certain limits, I am unable to state whether they are justified in coming so far south on that coast.

The Sultan assured me that at the present moment he receives annually from this portion of his dominions the sum of 5,000 dollars, namely, 300 bastings of seed pearls from the Lingkaboo River alone, which at 10 dollars a basting comes to 3,000 dollars per annum, and about 2,000 dollars from four birds'-nest caves in the Kinabatangan River, which are his family possessions.

This portion of Borneo at the present time, from want of a settled Government, is very sparsely inhabited, and for the most part still clothed with jungle, much of which, however, would become valuable as timber for exportation; but the soil in many places, notably on the Kinabatangan River, is known to be of excellent quality, and well adapted for tropical produce, while everything, reports of natives and the character of the country, &c., is in favour of the existence of valuable mineral resources, and the trade in birds'-nests, rattans, camphor, seed pearls, has been ascertained to be valuable, and only requires development. Such being the case, and a settled Government being established, ere long Chinese and others would flock into the country, and if the British Government gave its moral support, there need be no fear of any great difficulty in dealing with the natives, who, from the operations undertaken by Her Majesty's naval forces in the time of Sir James Brooke, have been taught the power of Europeans, so that the way is in a measure prepared for a Company undertaking the development and colonisation of the country; and there would be no need, in all probability, for the repetition of the lessons given by Sir James Brooke.

clause inserted rendering it not transferable to other than British subjects without the consent of the British Government; and also that he should insist that any differences which may hereafter arise between himself and the British Company should be referred for decision to the Consul-General in Borneo.

His Highness also consulted me, in a very intelligent manner, on several other points, such as the amount he should ask, &c., and in the advice I ventured to give I endeavoured, so far as possible, not to lose sight of His Highness' own interest while not opposing those of the proposed British Company, which already holds from Brunei a concession of the territories in question.

I should also state that the Baron de Overbeck has acted on this occasion with great courtesy, and my suggestions have been in the main embodied in the grant or agreement which has been sealed and signed this day.

By this grant, in consideration of the annual payment to the Sultan of the sum of 5,000 dollars, the representatives of the proposed Company obtain the concession of the country extending from the Pandassan River on the west coast to the Sibuco River on the east, including the five harbours of Maludu and Sandakan, and Darvel and Sibuco Bays.

The Sultan was anxious that the limits should be fixed from Kimanis to Balik Papan, explaining that by making no mention of the country from Kimanis to Maludu he might be thought by his people to be abandoning his claim to it, though at the same time he acknowledged that his power actually only commences at Maludu, and that consequently he would ask no additional rental if the limits were fixed as he desired; it being considered, however, that complications might arise in the future with the actual possessors of that country—for the most part independent Chiefs—a compromise was effected and the limits fixed from the Pandassan River to the Sibuco River, the latter limit being, according to a Dutch official chart, in the Baron's possession, the northern limit of Dutch territory on that coast, though, as I have not with me the Treaty said to exist with Holland confining its right to colonize in these seas within certain limits, I am unable to state whether they are justified in coming so far north on that coast.

The Sultan assured me that at the present moment he receives annually from this portion of his dominions the sum of 5,000 dollars, namely, 300 busings of seed pearls from the Langkon River alone, which at 10 dollars a busing comes to 3,000 dollars per annum, and about 2,000 dollars from four birds'-nest caves in the Kinabatangan River, which are his family possessions.

This portion of Borneo at the present time, from want of a settled Government, is very sparsely inhabited, and for the most part still clothed with jungle, much of which, however, would become valuable as timber for exportation; but the soil in many places, notably up the Kinabatangan River, is known to be of excellent quality, and well adapted for tropical produce, while everything, reports of natives and the character of the country, &c., is in favour of the existence of valuable mineral resources, and the trade in birds'-nests, rattans, camphor, seed pearls, has been ascertained to be valuable, and only to require development. Such being the case, and a settled Government being established, in no long time Chinese and others would flock into the country, and if the British Government gave its moral support, there need be no fear of any great difficulty in dealing with the natives, who, from the operations undertaken by Her Majesty's naval forces in the time of Sir James Brooke, have been taught the power of Europeans, so that the way is in a measure prepared for a Company undertaking the development and civilization of the country; and there would be no need, in all probability, for the repetition of the lessons given by Sir James Brooke.

Annex MM 37

LETTER FROM THE MARQUIS OF SALISBURY TO MR. WEST, OCTOBER 1, 1878

No. 131.

The Marquis of Salisbury to Mr. West.

(Extract.) *Foreign Office, October 1, 1878.*

YOU will have seen from the despatches of the Acting British Consul at Brunei that not only has the Spanish Governor of Banuwa already commenced to exercise judicial authority in Sulu, but that he is reported to have compelled the Sultan to write to Baron Overbeck ordering him to withdraw from Sandakan in Borneo. Mr. Treacher also states that in his conversations with Spanish officials they have invariably asserted the claims of Spain to the Bornean possessions of the Sultan of Sulu; and the intention of the Spaniards to assert this claim is further shown by the alleged proceedings of a Spanish gun-boat in ordering the inhabitants of various places on the coast of Borneo to hoist the Spanish flag, as reported in Mr. Treacher's telegram of the 24th instant, repeated to you on the 20th.

These reported proceedings on the part of Spanish officers with regard to Borneo are calculated to cause very serious uneasiness to Her Majesty's Government, in view of the important British interests existing in that island; and I have to request that you will at once inquire of the Spanish Minister for Foreign Affairs whether the reports which have reached Her Majesty's Government are accurate, and you will remind his Excellency of the assurance spontaneously given to Mr. Layard by Señor Calderon Collantes on the 3rd January, 1877, that the Spanish Government "had no designs whatever on Borneo, and limited the claims of Spanish sovereignty to Sulu and the adjacent islands."

You will press this important matter upon his Excellency's immediate attention.

Annex MM 38

LETTER FROM STUART, BRITISH AMBASSADOR TO THE NETHERLANDS TO MARQUIS OF SALISBURY, OCTOBER 24, 1879

No. 1.

Mr. Stuart to the Marquis of Salisbury.—(Received October 27.)

My Lord, *The Hague, October 24, 1879.*

WHILST the Budget for Netherlands India was under the consideration of the several Committees of the Second Chamber, various questions were raised in connection with the settlement of foreigners in the Indian Archipelago, and more especially with respect to Baron von Overbeck's attempts to establish himself in the north of Borneo, to the claims of Spain to exercise sovereign rights in the same region, to the attempts of foreigners to occupy territory in New Guinea, to the presence of Europeans in the Mapia or St. David's Islands, and to the concession for the working of guano on the Ashmore Shoals, between Timor and Australia.

I have the honour to inclose, for your Lordship's more complete information, an extract from the Preliminary Report of the Sections of the Chamber, showing the various views which were exchanged in the Committees respecting the above questions, as well as a translation of the answer, in which the Minister of the Colonies explained the views of the Netherlands Government in regard to them.

Some extreme opinions were certainly expressed as to the exclusive rights of the Netherlands in the different islands or regions referred to; but it will be seen that such opinions met with no encouragement from the Colonial Minister, although, in the matter of Baron von Overbeck's undertaking, his Excellency went so far as to say that, if it had been a question of a settlement by the British Government, instead of by a private Company, the Netherlands Government might appeal to the general tenour of the Treaty of 1824 to show that a common occupation by England and Holland of the same island in the Indian Archipelago should be avoided.

Baron de Goltstein's further explanations upon this question, as well as upon the others respecting which inquiries had been made of him, appear to have been sensible and judicious. He denied that Netherlands rights had been infringed or Netherlands interests endangered by any of the concessions which had been granted, whilst undertaking to watch those and any similar proceedings in the Eastern Archipelago with the closest attention. He also stated that, in order to obtain accurate information concerning passing events in the north of Borneo, a ship of war belonging to the Indian Navy was now there, which would be shortly followed by another from the Home Auxiliary Squadron.

With regard to the Ashmore Shoals, his Excellency explained that the Netherlands Indian Government had, in the first instance, considered that they had no right to grant any concession, and had only done so upon its having been represented to them that no other Power had a better right to grant one; but that the concession thereupon granted had been revoked in consequence of a report—which was afterwards discovered to be erroneous—that the American Government had granted a similar concession, and that it then appeared that Her Majesty's Government had granted a concession for working the guano upon the shoals, about which two English or Australian Companies were now engaged in disputation.

There was therefore no ground, in the opinion of the Colonial Minister, for demanding the revocation of the English concession, upon the maintenance of which the British Government laid much stress, nor any object in taking the defence of the interests of either of those Companies against their own Government.

I have, &c.
(Signed) W. STUART.

Annex MM 39

EXTRACT FROM MEMORANDUM OF TRANSFER, RESIDENT MEIJER OF THE SOUTHERN AND EASTERN DIVISION OF BORNEO, MARCH 2, 1880

Extract from Memorandum of Transfer, Resident Meijer of the Southern and Eastern Division of Borneo, 2 March 1880.
Text in General State Archives of the Netherlands, ARA, The Hague, microfiche 267 1+2.

'Not to speak of the situation in the northern dominions, such as Berouw and Boeloengan where the trade with the inhabitants of the Sulu archipelago consists mainly of exchanging goods for kidnapped people, who are sold in our territory as slaves.'

Text in Dutch:

'Hoe moet de toestand dan wel niet zijn in de noordelijke rijken, zoals Berouw en Boeloengan, alwaar de handel met bewoners van den Solok archipel hoofdzakelijk bestaat in het zenden van handels artikelen tegen geroofde menschen, die in ons gebied als slaaf worden verkocht'.

Annex MM 40

EXTRACT FROM ANSWER OF THE COLONIAL MINISTER TO INQUIRIES MADE BY THE COMMITTEE OF THE SECOND CHAMBER IN THEIR PRELIMINARY REPORT ON THE NETHERLANDS INDIAN BUDGET FOR 1880

Inclosure 2 in No. 1.

Extract from the Answer of the Colonial Minister to Inquiries made by the Committee of the Second Chamber in their Preliminary Report on the Netherlands Indian Budget for 1880.

(Translation.)

THE north-east and north-west portions of Borneo have never been under our dominion. We have never disputed the authority of Spain over the dependencies of Sulu in the north-east portion of the island. We did not interfere with the establishment in Sarawak of an European Rajah vassal of the Sultan of Brunei. When the Treaty of 1847 between England and Brunei was communicated to us by the British Government in 1849, we received it simply as an announcement. We did not oppose the American undertaking in the north of Borneo, which was a forerunner of that of Baron Overbeck. What right and what reasons should we have to assume a hostile attitude towards the latter? If it were a question of a Settlement made in that island by the British Government we might appeal to the general tenour of the London Treaty of 1824 to show that a common occupation by England and Holland of the same island in the Indian Archipelago should be avoided. But as it appears this is simply a question of the establishment of a private Company in virtue of concessions which have been granted by native Chiefs who are independent of our authority. Were our private or commercial interests injured thereby it might be affirmed that the Government should take measures to protect the interests of our country even in districts which are not under the sway of the Netherlands. But there is, as it appears, little reason to apprehend any such danger from the undertaking in question, and it would be difficult to prove that our rights have been infringed by the concessions which have been granted. This holds good at any rate as regards the Brunei concession. As far as the Sulu concession is concerned it is not quite certain whether the contracting parties were well acquainted with the precise frontier-line of the Netherlands territory on the east coast of Borneo. With a view to preventing possible misapprehensions, orders have been issued for the Netherlands flag to be hoisted on the border (on the Batoo Tinagat Rock, situated at the mouth of the Tinagat River in 4° 19″ north latitude, and 117° 51″ east longitude, according to the last survey) to be placed for the present under the protection of a cruizer, whilst the Sultan of Boloengan has been requested to maintain a Representative at this point on his side of the frontier-line in question.

With regard to what has been and is being done in the north of Borneo beyond the limits of our territory, the Government (who have from the commencement watched those proceedings with the greatest interest) cannot perceive that either our interests or rights have thus far been in any way prejudiced thereby. It is, however, desirable that we should be accurately informed of what takes place there, and for that purpose those localities are at this moment being visited by a ship of war belonging to the Indian Navy, which will shortly be followed by another from the Home Auxiliary Squadron.

As regards New Guinea, fear was expressed in the Preliminary Report of the Sections of the Chamber that the Government paid too little attention to that possession. That our contact with New Guinea has not been more extended is to be attributed to the nature of the country and of the people, with whom not much is to be done. Our proceedings with reference to that island must, for the present, be mainly confined to sending thither Government civil servants from time to time; and visits of this kind have already been paid in the course of the present year. The Government is not conscious of "having allowed other nations to reap the benefits which should have accrued to the Netherlands." The Government is certainly not to be reproached with a want of interest in this question, because foreign, rather than Dutch, naturalists have in latter times devoted themselves to the exploration of New Guinea.

With respect to the Ashmore Shoal the following is what occurred:—

The reefs known under this name, which lie between Timor and Australia, were until recently unclaimed as belonging to any one. In May 1877 these shoals were visited by an American vessel which had been chartered by an Australian Company—the Browse Island Guano Company—and on board of which vessel there was an agent of that Company. It then appeared that there was guano on those reefs, and the agent in question applied to the Netherlands Indian Government for a concession for working it. That

Government considered that they had no power to grant such concession, as the Ashmore Shoal formed no part of our possessions; but it having been pointed out that no other Power appeared to have a better right than the Netherlands to do what the circumstances required, the Indian Government acceded to the request of the agent of the Browse Island Company (August 1878). But scarcely had this been done than the Indian Government were informed that the American Government had been beforehand with them, and, having taken possession of the Ashmore Shoal, had granted a concession for working the guano upon it. The concession granted by the Netherlands Indian Government was consequently revoked (October 1878). Subsequently it turned out that the report of the taking possession of the Ashmore Shoal was incorrect, but it at the same time appeared that the British Government had assumed sovereignty over the shoal, and had given a concession for the working of the guano upon it to the Melbourne Guano Company, which had been established in concert with the master of the vessel which had visited the shoal in May 1877.

As this act of the British Government was subsequent to the revocation of the concession granted by the Netherlands Indian Government, we could scarcely bring forward any valid reasons for objecting to it. There was at any rate no ground for demanding the revocation of the English concession (on the maintenance of which the British Government laid much stress), especially as it appeared afterwards that there were two English Companies who claimed the right of working guano on the shoal; and it could not be our business to take the defence of the interests of either of these Companies against their own Government.

In the Preliminary Report of the Sections complaint is made of the terms in which the question concerning the Ashmore Shoal is referred to in the Minister's Colonial Report (which accompanied the Budget).

It appears, however, that M. van Rees (the late Minister of the Colonies, by whom that Report was drawn up) used the words "a territorial question of but little interest," because no Netherlands interests were involved in its solution. The matter itself was, however, duly weighed here at home.

Annex MM 41

LETTER FROM COUNT DE BYLANDT TO EARL GRANVILLE, APRIL 8, 1881

No. 107.

Count de Bylandt to Earl Granville.—(Received April 10.)

[See subsequent letter of same date at p. 186.]

M. le Comte,

Londres, le 8 Avril, 1881.

LORSQUE j'ai eu l'honneur de communiquer à votre Excellence copie de la dépêche du Baron de Lynden de Sandenburg, en date du 22 Janvier dernier, concernant les concessions que les Sultans de Broeinai et de Solo ont accordé à MM. Overbeck et Dent, votre Excellence n'a pas hésité à réitérer, entre autres, formellement la promesse qu'elle m'avait déjà donnée à une occasion précédente, notamment, que la Charte à accorder à la "Bornéo Company" n'enlèvera pas à cette Société son caractère strictement privé et commercial, exempt de toute signification politique, et étranger à tout dessein politique; qu'il n'y sera pas non plus question d'établir la souveraineté Britannique dans ces contrées, ou du droit d'arborer le pavillon Anglais. Le Gouvernement du Roi a pris alors connaissance avec une vive satisfaction de ces assurances réitérées qui ne laissent plus subsister aucun doute sur les intentions du Gouvernement de la Reine; il s'est plu à y voir un témoignage irrécusable des intentions bienveillantes de votre Excellence et du désir qu'elle avait d'éviter dans cette question tout ce qui pourrait froisser les sentiments du Gouvernement du Roi, ou l'opinion publique aux Pays-Bas.

Aussi le Gouvernement du Roi, rassuré par les paroles de votre Excellence, se serait-il borné à attendre tranquillement les communications promises par le Cabinet de St. James, et se serait-il abstenu de revenir maintenant déjà sur la question si, par un hasard tout imprévu, l'existence de quelques documents confidentiels imprimés concernant l'entreprise de Mr. Dent, n'avait été signalée à son attention. Ces pièces, dont Mr. Dent lui a communiqué sur sa demande un exemplaire, ont été rédigées évidemment sous l'empire d'un ordre d'idées entièrement différent de celui dont votre Excellence s'est inspirée dans ses conversations avec moi, et le Gouvernement du Roi craint par conséquent qu'un malentendu sérieux ne menace de se produire dans la question. De là sa conviction qu'il importe de communiquer sans retard à votre Excellence les appréhensions qu'il éprouve, avec la franchise qui caractérise plus particulièrement et en toute occasion ses agissements vis-à-vis du Gouvernement de la Reine.

Il désire faire de cette façon de son côté tout ce qui est possible pour étouffer toute cause de malentendu dans son germe. Les documents sus-indiqués sont les suivants:—

1. "Mémorandum: 'The British Bornéo Company,'" avec Appendice;
2. "Statement and Application to Lord Salisbury. 2nd December, 1878."
3. "Official Notice respecting the Grant of a Charter."

Il résulte de ces pièces, que MM. Overbeck et Dent ont demandé officiellement le 2 Décembre, 1878, au Marquis de Salisbury une Charte pour leurs entreprises et établissements dans l'Ile de Bornéo, en indiquant dans un Mémoire détaillé, les conditions qu'ils désireraient voir consacrer par ce document, et que, en date du 16 Décembre, 1880, il leur a été répondu de la part et par ordre de votre Excellence, que le Gouvernement était disposé à recommander leur demande à la considération favorable de la Reine, et cela entre autres, aux conditions formulées dans leur Mémoire de l'année 1878.

Le Gouvernement du Roi désire pour le moment s'abstenir de considérations plus détaillées sur la délimitation des territoires compris dans les concessions des Sultans de Brouinai et de Solo à MM. Overbeck et Dent, et qui s'étendraient dans la partie nord-est de l'Ile de Bornéo jusqu'à la rive gauche de la Rivière Sibucco. Il suffira de faire observer dès maintenant que la souveraineté des Pays-Bas embrasse dans cette partie de l'Ile de Bornéo:—

1. Les contrées qui, situées sur la rive gauche du Sibuccon, forment le territoire des anciens pays de Tidung, ressortissants à leur tour de l'Etat vassal des Pays-Bas, Boelongan;

2. Les Iles Terrakan, Manoekan, et Sibittikh avec les îlots adjacents. Ces territoires n'ont par conséquent pas pu être cédés à la Société Dent.

Mais le Gouvernement du Roi désire maintenant appeler plus particulièrement l'attention sur les conditions auxquelles la Charte serait accordée d'après les documents cités plus haut.

Parmi ces conditions il y en a quelques-unes qui, en effet, ne semblent pas pouvoir se concilier avec le caractère strictement privé et commercial, et exempt de toute signification politique que votre Excellence a déclaré vouloir attribuer aux entreprises et établissements de Mr. Dent. Du moment que la nomination du principal administrateur des territoires de la Bornéo Company et de son fonctionnaire judiciaire supérieur dépendra de la confirmation du Gouvernement Britannique; du moment que la nomination directe par la Couronne Anglaise des principaux fonctionnaires judiciaires est admise en principe pour l'avenir; du moment que la Couronne Anglaise confie l'exercice de sa juridiction ex-territoriale sur ses sujets dans les territoires de la Société aux fonctionnaires de celle-ci; du moment, enfin, que le Gouvernement de la Reine libère la Société de toute responsabilité vis-à-vis des Gouvernements étrangers dans les conflits qui pourront se produire entre elle et ces Gouvernements à l'égard de leurs sujets et nationaux respectifs, en assumant lui-même cette responsabilité, il naîtra nécessairement un état de choses, qui, de l'avis du Gouvernement du Roi, identifiera par trop la Société avec le Gouvernement Britannique et confondra leurs intérêts et leurs actes à tel point, qu'il deviendra impossible de soutenir encore la thèse que les entreprises et établissements de la Bornéo Company possèdent un caractère strictement et exclusivement privé et commercial, exempt de toute signification politique. Et, en outre, quand le Gouvernement Britannique conditionnera qu'il ne sera pas loisible à la Société de disposer, sans son autorisation expresse, de ses territoires au profit de tiers, quand il assumera la juridiction en cas de dissentiments entre les Princes indigènes et les concessionnaires; quand il remplira, enfin, non seulement le rôle de protecteur de la Compagnie, mais encore celui de son représentant vis-à-vis des Gouvernements étrangers, il sera impossible de ne pas admettre qu'il existe un droit de souveraineté occulte, déguisé, de la Couronne Anglaise sur les territoires de la Société. Il est donc évident qu'un malentendu se produirait si votre Excellence continuait à croire qu'une Charte contenant de semblables stipulations ne froisserait pas les sentiments de la nation Néerlandaise et n'éveillerait pas les inquiétudes sérieuses du Gouvernement du Roi. Aussi celui-ci estime-t-il qu'il est de son devoir de présenter dès maintenant ses observations à cet égard, et de ne pas dissimuler l'impression pénible que la lecture les documents confidentiels en question a produite sur lui, persuadé qu'il serait agréable à votre Excellence de pouvoir se rendre compte en temps utile de cette impression. Il se flatte donc que le principal Secrétaire d'Etat de la Reine pour les Affaires Etrangères voudra bien prêter sa plus sérieuse attention aux observations et considérations exposées ci-dessus, avant de procéder aux délibérations sur les diverses clauses à insérer dans la Charte que le Gouvernement Anglais veut accorder à la Bornéo Company.

Veuillez, &c.
(Signé) C. DE BYLANDT.

Annex MM 42

SUMMARY OF DEBATE IN THE SECOND CHAMBER OF THE NETHERLANDS PARLIAMENT, 6 DECEMBER, 1881

Sitting of December 6, 1881.

M. Keuchenius opened the debate with a long speech in which, with reference to Borneo, he said that it was certainly very doubtful whether the Netherlands had any rights over the northern part of that island, and that at any rate, as appeared by a map executed some time since, the dominion of Holland did not extend to the territory which was the subject of the concession to Mr. Dent. There could consequently be no question of a protest on the part of the Netherlands against the Charter which had been granted, and he did not see how the Netherlands could interfere actively to obtain the withdrawal of the Charter without engaging in a war more terrible than that with Atchin.

He could not, however, agree with M. van der Hoeven, that Borneo was entirely excluded from the territories to which the Treaty of 1824 referred. It is true that Borneo was not mentioned in that Treaty, neither were many other of the islands of the Indian Archipelago, but this was not necessary, as by Article 3 it was agreed that both parties to it should communicate to each other all Treaties already concluded with native Princes. But we know that this was not done, probably because at the time neither party could lay his hands upon all the Treaties so concluded.

He considered the Treaty of 1847 between England and Brunei as at variance with the stipulations of the Treaty of 1824, not because we have rights over Brunei, the Sultan of which is an independent Prince, but because we might have required from England that she should not conclude a Treaty of the kind, seeing that the main object of the Treaty of 1824 was to keep the possessions of both Parties as separate as possible, giving as a rule the mainland to England, and the islands to the Netherlands. However, the fact that the Netherlands Department for the Colonies, after having, in 1849, been informed of the conclusion of the Treaty of 1847, had preserved silence thereupon, rendered it impossible for succeeding Ministers to come forward in defence of the rights of the Netherlands.

At the same time much might have been done diplomatically to convince England that she had done wrong in concluding the Treaty of 1847, and he joined in the request made by M. Wintgens, for the production of papers showing what cause had been pursued by our diplomacy, with a view to limit the political influence of England in Borneo, and the interference of the British Government as regards the Overbeck Concession.

Something could the more easily have been effected in this direction because, as was yesterday observed by M. van der Hoeven, there is in England a strong disinclination to any increase of her colonial possessions.

M. Rochussen, Minister for Foreign Affairs, said, as regards Borneo ;—

From the moment when we were informed of the Overbeck affair, we constantly represented to the British Government that the undertaking did not appear to be of a private character. We were, however, on each occasion assured either verbally or in writing, that the Company would be only a commercial one, and that England would do nothing towards establishing her dominion in Borneo.

When the British Government decided on granting a Charter to the Company, we were made acquainted with the draft of the proposed provision of that Charter, in order that we might make our observations thereupon.

This we did, and we pointed out certain provisions which, in our opinion, required to be modified. But the British Government declared that those provisions must be maintained as indispensable to the interests of a trading Company.

He did not see how the Netherlands Government could do more, and in his opinion they wouldhave incurred an immense responsibility if they had provoked a difference on a question on which, even here in Holland, opinions differed so much, as appeared from the speech of M. van der Hoeven, whose opinion on colonial questions was so authoritative.

M. Heydenryck said he was happy to see that the Minister had brought the Borneo question to a practical point. It might be very well to make long speeches respecting the Treaty of 1824, but as we had once accepted the Treaty of 1847 between England and Brunei, there was nothing more to be said. He regretted, however, that the Minister had not complied with the request of M. Keuchenius for more detailed information respecting the subject of the debate. The Minister asserts that, with regard to the Overbeck Concession, there is no question of a settlement undertaken by the British Government. But can this be maintained in the face of the provisions of the Charter, from every Article of which it appears that the undertaking is not of a private character? If he understood M. van der Hoeven properly, that gentleman seemed to be of opinion that we have to deal with an English Settlement in Borneo, and that appears also to be the view taken by the First Chamber, as the latter urges the conclusion of Treaties with England with reference to the East and the West Coasts of Borneo.

He (M. Heydenryck) is opposed to that course, but recommends the Minister to be watchful, and to take care that at any rate no further encroachments be made upon our interests in India.

With all respect for our rights in that quarter, he is of opinion that they are not now called in question, and that the real questions are: What has our diplomacy done? and what does the Minister propose to do in the future?

M. Wintgens said that, although he desired to take up the time [illegible] the House as little as possible, seeing the near approach of the Christmas holidays, he must declare that the debate had not convinced him that the Treaty of 1824 had not been violated by England. He reminded the Chamber of what had been said by M. Band and M. Sarran (former Ministers) on the subject of that Treaty, and he firmly believed that if we had defended our rights with greater energy, that which we now see occurring in Northern Borneo would not have occurred.

But we are placed before an accomplished fact, and he would therefore say nothing more on the subject; he only hoped that the Government would watch over the just rights of the Netherlands.

(The Chamber then proceeded to discuss the several items of the Estimates for the Foreign Department.)

Annex MM 43

FURTHER MEMORANDUM BY SIR E. HERTSLET ON THE DISPUTED BOUNDARY BETWEEN THE NORTH BORNEO COMPANY AND THE DUTCH POSSESSIONS ON THE NORTH-EAST COAST OF THAT ISLAND, JANUARY 9, 1889

No. 6.

Further Memorandum by Sir E. Hertslet on the Disputed Boundary between the North Borneo Company and the Dutch Possessions on the North-East Coast of that Island.

IN the Dutch note of the 22nd December, 1888, it is maintained that, before the actual Proclamation is issued of a British Protectorate over Sarawak, Brunei, and the British North Borneo Company's territory, it is necessary that the boundary between the Dutch possessions and the States to be protected by this country should be clearly defined.

Communication from Count de Bylandt, January 2, 1889.

It then declares the boundary claimed by the Netherlands to be as follows:—

"En partant du point extrême à l'ouest, Tandjong Datoe, jusqu'au point extrême à l'est, Batoe Tinigat, la chaîne de Montagnes formant la ligne de faîte qui sépare les eaux ayant leur embouchure sur le territoire Néerlandais des eaux qui se déversent le territoire de Sarawak, Brunei, et de la 'British North Borneo Company,' entre les deux points extrêmes susmentionnés."

The position of these two points, *Tandjong Datoe*, on the west, and *Batoe Tinigat*, on the east, is clearly shown on the accompanying Map, which was laid before Parliament in 1882 with the "Papers relating to the Affairs of Sulu and Borneo, and to the Grant of a Charter of Incorporation to the British North Borneo Company."

"Spain No. 1 (1882)," Borneo and Sulu, No. 2514.

[520]

With regard to Tandjong Datoe, no question would, I think, be likely to arise, as that is admitted to be the extreme limit of the Dutch boundary on the west coast of the Island of Borneo, separating, as it does, the Dutch possessions from the territory of the Rajah of Sarawak.

But the real question in dispute is the right of the Dutch to claim territory on the east coast as far north as Batoe Tinigat.

"Netherlands No. 1 (1882)," Borneo and Sulu, No. 2515.

When the Papers upon this subject were laid before Parliament in 1882 a Map was attached to one of the Blue Books, upon which two dotted lines were drawn, one marking the "limit of Dutch territory 3° 20′ north latitude, referred to in the Arrêté of the Governor-General of Netherlands India, of the 28th February, 1846;" and the other, marking the extent of "territory claimed by Holland to 4° 20′, but not recognized by Great Britain."

"Spain No. 1 (1882)," No. 2514, p. 192.

In one of these Blue Books a copy was also given of the Charter which had (on the 1st November, 1881) been granted to the British North Borneo Company, and in which was recited the Grants made by the Sultan of Brunei and Sulu to that Company, of territory as far south as the Sibuco, the actual words in each of the Grants being "as far as the Sibuco River."

Sir R. Alcock, July 1, 1882.

The North Borneo Company maintain that, according to Malay custom, this would include both banks and the entire control of the river, although the boundary is not so coloured on Stanford's last published Map of the North Borneo Company's territory.

Count de Bylandt, May 31, 1882, Print 5081, p. 1.

But, as soon as the Blue Books above mentioned were issued, Count de Bylandt addressed a note to Lord Granville, in which he said Her Majesty's Government were not justified in relying solely upon the official Arrêté of the 28th February, 1846, inasmuch as the terms of that Decree had been modified: (1) by an announcement made in the "Journal Officiel Indien" in 1849; and (2) by the communication made to the Chamber by the Netherlands Minister for the Colonies on the 18th June, 1850; and in this letter it was further stated by Count de Bylandt that, before the Concessions were made to Messrs. Overbeck and Dent, the "Journal Officiel Indien," No. 31, of 1877, had already stated that within the vassal State of Boelongan were included the territories of Tidoeng and the Islands of Terrakan, Neuvekan, and Sebittik, with the small islands adjacent thereto; and, moreover, that a description of the State of Boelongan was mentioned in the Contract of Vassalage concluded with the Sovereign of that territory on the 2nd June, 1878, and a copy of which was forwarded to Her Majesty's Government on the 17th January, 1880.

Contract with Sultan of Boelongan, June 2, 1878.

Count de Bylandt, January 17, 1880.

It should be borne in mind that Count de Bylandt made no allusion here to any earlier Contract having been concluded, but to which attention will be drawn later on.

In another letter dated the 12th August, 1882, Count de Bylandt announced that an inquiry made by the Dutch East Indian authorities on the spot had established, in the most positive manner, that the riverain territories ("territoires riverains") of the Tawao River belonged to the State of Boelongan, and, consequently, to the Netherlands Indies; so that "la souveraineté territoriale Néerlandaise à la côte nord orientale de Bornéo est limitée par la chaîne de collines qui sépare les cours d'eaux, et qui commence à la mer avec le Batoe Tinigat et s'étend d'abord vers le nord, puis vers l'ouest jusqu'aux montagnes centrales de Bornéo."

This is, in effect, apparently the same boundary as that now claimed in the Dutch Minister's note of the 22nd December, 1888.

To Count de Bylandt, August 31, 1882.

But on the 31st August, 1882, Lord Granville, in replying to the above-mentioned notes from Count de Bylandt, maintained that Her Majesty's Government were justified in relying upon the official Arrêté of 1846, which had been communicated to them through the regular channel, and that they could not be expected to rely in preference upon the announcement of 1849, of which they had only then heard for the first time, or upon a communication made to the Dutch Chamber, but which was not followed, as far as Her Majesty's Government were aware, by the issue of a new Arrêté altering the preceding one.

Count de Bylandt was then informed that since the receipt of his notes, a copy of the announcement of 1849 had been procured, and that no statement was to be found in it that the Netherlands frontier had advanced beyond the previously-named limit of 3° 20'.

Lord Granville then pointed out, with reference to the Dutch claim to the State of Boelongan being within the Netherlands India possession, that the Concessions made to Messrs. Dent and Overbeck were dated the 29th December, 1877, and 22nd January, 1878, whereas the Contract of Vassalage of Boelongan (communicated to Her Majesty's Government on the 17th January, 1880) was dated the 2nd June, 1878, and that, consequently, being posterior to the Concessions, it could not invalidate them; and he concluded by informing Count de Bylandt that a careful and friendly examination of his arguments had convinced Her Majesty's Government that they failed to support a claim for the recognition of a frontier extending beyond 3° 20′.

The matter in dispute, therefore, now rests entirely upon the question of dates; that is to say, whether the northern boundary of the Netherlands possessions on the east coast of Borneo, at the date of the Cessions made by the Sultans of Brunei and Sulu to Messrs. Dent and Overbeck on the 29th December, 1877, and 22nd January, 1878, was limited to the Atar River, in latitude 3° 20′, or whether it extended to the Tawao River and Batu Tinigat.

On reference to the annexed Map it will be seen that the former river is within the State of Boelongan, and the latter within the more northerly State of Tidoeng (now claimed by the Dutch), and the question to be decided is, when did the Dutch obtain actual possession of Tidoeng from the Sultan of Boelongan, and whether that Sultan had any right to make such a Cession?

The Netherlands Government have raised the question as to the right of the Sultans of Brunei and Sulu, at the date of the Cessions made to the North Borneo Company, to cede any territory situated south and west of Batu Tinigat, which they say now forms part of the possessions of the King of the Netherlands; but it will be seen from what follows that in a Dutch Map published at Breda in 1857, and to all appearance under official sanction and authority, the territory north of the Atar River was stated to belong to the Sultan of Sulu, whose independence the Dutch Minister for Foreign Affairs (Baron de Leyden) admitted on the 9th October, 1880 (after the grant of the Sulu Concessions), was fully recognized by the Netherlands Government.

Sir R. Alcock, December 20, 1882, Print 5091, p. 24.

Sir R. Alcock, July 1, 1882. Print 5091, p. 2.

Sir R. Alcock declares that it was not until after the limits of the Concession granted to Mr. Dent, as fixed by the Sultans of Sulu and Brunei, were known that a statement appeared in an official Colonial Report, laid before the States-General in 1877, to the effect that, to check piracy, it was intended in the next fair season to station cruisers in the waters of Berou, Boelongan, and *Sesajap*, then stated therein to be the *northernmost boundary of the Dutch* possessions on the east coast; and he has pointed out that, although the district of Sesajap is beyond the Dutch boundary-line fixed in 1846, it is still south of the Sibuco River, from which it is separated by two smaller districts. He has also drawn attention to the fact that, notwithstanding these facts, the Dutch Colonial Minister, in answer to inquiries made by the Committee of the Second Chamber in the Preliminary Report on the Netherlands Indian Budget for 1880 (and which document was laid before Parliament with the Papers relating to the affairs of Sulu and Borneo) after having first admitted that the north-east and the north-west portions of Borneo had never been under Dutch dominion, and that the Dutch had never disputed the authority of Spain over the dependencies of Sulu in the north-eastern portion of the island, then went on to say that, as far as the Sulu Concession was concerned, it was not quite certain whether the Contracting Parties were well acquainted with the precise frontier-line of the Netherlands territory on the east coast of Borneo; and that, with a view to preventing possible misapprehension, orders had been given for the Netherlands flag to be hoisted on the border (on the Batu Tinigat Rock, situated at the mouth of the Tinigat River, in 4° 19′ north latitude, and 117° 51′ east longitude, according to their last survey), there to be placed under the protection of a Dutch cruiser, whilst the Sultan of Boelongan had been requested to maintain a Representative at this point on his side of the frontier-line in question.

Sir R. Alcock, July 1, 1882.

"Netherlands No. 2 (1882)," p. 2, No. 2615.

After attending to the contradictions contained in these official statements, Sir R. Alcock pointed out that the boundary claimed by the Dutch on the 26th February, 1846, was the Atar River, situated about latitude 3° 20′; that this same boundary-line was the one still claimed in a Map published at Breda in 1857, to all appearance under official sanction and authority; and that upon that Map the territory to the north of the Atar River was stated to belong to the Sultan of Sulu, whose independence, Baron de Lynden informed Mr. Stuart, Her Majesty's Minister at the Hague, on the 9th October, 1880, was fully recognized by the Netherlands Government; and he further stated that this was considered to be the limitation of the Dutch boundary, until 1877, when the Sesajap River, to the south of the Sibuco, was declared to be the boundary.

Blue Book, No. 2615, p. 17.

Sir R. Alcock then maintained that the hoisting of the Dutch flag at Batu Tinigat, a point of coast to the north of the Sibuco River, and the stationing there of a gun-boat to bar all free access, was an encroachment on the territorial rights of the North Borneo Company, which, he said, raised a question they were bound to refer to Her Majesty's Secretary of State for adjustment, by the terms of their Charter.

Inclosure 1 to Sir R. Alcock's letter of December 20, 1883, § 11.

Ditto, § 13.

In [illegible] meantime, the Company formally protested against this action on the part of the [illegible]; and as the Sultan of Sulu, it may be observed, has never admitted the right of the Dutch to the Provinces of Boeloongan and Tidoeng, Sir R. Alcock would appear to be correct in saying that "the contention of the Dutch authorities that the country of Tidoeng had, from time immemorial, been subject to the Sultan of Boeloongan, and that the Sultan of Boeloongan was the subject of His Netherlands Majesty," was begging the whole question in dispute.

Count de Bylandt, June 3, 1885.

As the present communication from the Dutch Government expressly refers to the previous Dutch notes of the 1st December, 1882, and the 13th March, 1884, to which, it is stated, no replies have yet been returned, it may be well now to examine those notes, to see whether they really contain any new facts in support of the Dutch claim to the possession of territory to the north of the Sibuco River, as far north as Batu Tinigat.

Count de Bylandt's note of the 1st December, 1882, begins by reasserting that the *Arrêté* of the 28th February, 1846, which it is stated (and truly) was not officially communicated by the Dutch to the British Government, was modified by another *Arrêté* on the 27th August, 1849, which indicated the Soengei or Kampong Atas as forming the frontier, that being the same point as was mentioned in the former *Arrêté* (about 3° 20′ north latitude), but that "la longitude (? latitude) a *été supprimée;*" but it is admitted that it was not "*remplacée* par la mention du 4° 20′ de longitude (? latitude) septentrionale."

The note then calls attention again to the Decree of the Netherlands India Government of the 2nd February, 1877, to which he says he drew attention in his note of the 31st May, 1882, but to which, he adds, Lord Granville made no allusion in his reply of the 31st August following, and he then repeats what he said in his note of the 31st May, 1882.

In reply to these stateme[illegible] the following observations may now be offered.

Sir E. Disbrowe, No. 65, April 9 1849.

The *Arrêté* of the 28th February, *1846*, was forwarded to this Office by Sir E. Disbrowe, Her Majesty's Minister at the Hague, on the 9th April, *1849*.

Sir E. Disbrowe had, in May 1845, forwarded home an extract from a Decree of the Governor-General of Netherlands India establishing a new Governor in Borneo, and fixing the limits of what Sir E. Disbrowe described as "these assumed possessions;" but in his despatch of the 9th April 1849, he said that, from circumstances which had since come to his knowledge, and from hints that had been thrown out since he had officially communicated the Treaty between the British Government and the Sultan of Borneo of 1847, he was induced to believe that the limits which the Governor-General of Netherlands India included in this new Government contained a very extensive part of the interior of the island and probably portions which were included within the frontier of Borneo proper; and he, therefore, sent home a copy of the "Staats Courant," or official Gazette (together with a translation by a sworn translator), containing the *Arrêté* of the 28th February, 1846, in full, which claimed as the Dutch boundary territory situated as far as "the Kampong Atas, forming the boundary of the State of *Boeloongan*, belonging to Berou, with the *Tidoeng* countries, and situated about *3° 20′* north latitude."

It will be observed that although "the Tidoeng countries" was mentioned in this *Arrêté*, the Dutch boundary was fixed at "about 3° 20′ north latitude," whereas the Dutch now claim territory as far north as 4° 20′.

A copy of Sir E. Disbrowe's despatch of the 9th April, 1849, together with a copy of the *Arrêté* of the 28th February, 1846, was sent to Sir James Brooke with instructions to report on the limits therein set forth; and he reported on the 3rd October, 1849, that the "geography of Borneo was so imperfect, and the boundary-lines of petty States so irregular, so vague, and of so little consequence to the native Rulers, that it could scarcely be maintained by the Netherlands Government, as stated in an extract from the Dutch 'Register of Resolutions,'" that "the general knowledge of the geographical and political affairs of Borneo afforded an opportunity of fixing the circumscription of a territorial division of the island."

No objection was, however, offered by the British Government to the extension of the Dutch territory in Borneo on the north-east coast as far as 3° 20′, but nothing beyond that to the north has ever been recognized by this country as belonging to Holland.

With reference to the "Resolution" of August 1849, in which Count de Bylandt says the frontier at 3° 20′, as established in 1846, was "suppressed," it may be mentioned that that document was never communicated officially to Her Majesty's Government, and that when a copy of it was obtained from the British Museum in 1882, it was found that it was not stated therein that the Dutch frontier was advanced beyond 3° 20′, although it spoke in vague terms of "the entire river district of Berou;" and, so far from Her Majesty's Government having had any reason to suppose that any claim was at that time set up to an extension of territory beyond 3° 20′, Sir E. Disbrowe, in that same month, August 1849, forwarded to the Foreign Office a Map of a part of the Island of Borneo, published under the direction of Lieutenant Melville Carnebee, of the Royal Netherlands Navy, "showing the limits which the Netherlands Government claimed in that island, in virtue of the Proclamation of the Governor-General of Netherlands India, M. de Rochusen," or, in other words, in virtue of the Arrêté of 28th February, 1846; upon that Map, the Atas River, in latitude 3° 20′, is marked as the limit of the Dutch possession at that time (1849), and Sir E. Disbrowe assured Lord Palmerston that, although it was not an original boundary Map, and not perfectly official, it indicated correctly the Netherlands pretensions.

Count de Bylandt then proceeds to state, in his note of the 1st December, 1882, that the Decree of the Netherlands India Government "*of the 2nd February, 1877*," declaring Boelongan and Tidoeng to be Dutch territory, was issued *before* the promulgation of the Dent and Overbeck Concession, and he accordingly maintains, and he lays stress on the fact, that if the principle of dates is to be invoked, it is entirely in favour of the Dutch; but he admits that the "Contract of Vassalage" on the part of Sultan of Boelongan was not signed until the 2nd June, 1878,* so that the Netherlands India Government were apparently not justified in issuing a Decree declaring Boelongan and Tidoeng to be Dutch territory before this Contract of Vassalage had been signed (although allusion has since been made by Count de Bylandt to an Agreement having been signed with the Sultan of Boelongan in 1850, to which attention will be drawn later on); and as the Dent and Overbeck Concessions were signed on the 29th December, 1877, and 22nd January, 1878, respectively, whereas the Boelongan Contract of Vassalage was not signed until the 2nd June, 1878, the principle of dates, if invoked, is entirely *against*, and not in favour of the Dutch claim.

Moreover, even with regard to this Contract of the 2nd June, 1878, Her Majesty's Government were not made aware of its existence until the 17th January, *1880*, when a copy of it was officially communicated by Count de Bylandt to the Marquis of Salisbury.

Count de Bylandt, May 31, 1882.

It may here be mentioned that it is stated in a Memorandum respecting the boundary between the Netherlands and Soloh possessions on the north-east coast of Borneo, which was given to Earl Granville by Count de Bylandt on the 6th April, 1883, that an Agreement similar to that of the 2nd June, 1878, was made between the Netherlands India Government and the Sultan of Boelongan on the 13th November, 1850; but that it was not communicated to England, because no such communication was required under the Treaty of London of 1824, as the Contract was only concerned with the establishment of rights anterior to that Treaty: but as the so-called "new" Contract with Boelongan of the 2nd June, 1878, was officially communicated to the British Government, it is difficult to follow the argument, or to understand what the necessity was which called for the conclusion of a new Contract containing, apparently, the same stipulations, and why the Agreement of 1850 was not mentioned when the Contract of 1878 was officially communicated.

Print, No. 5091, p. 20.

As it is pointed out by Count de Bylandt that the boundaries of the Kingdom of Boelongan and of the islands belonging to it are described in the Contract of the 2nd June, 1878, it may be stated here how the boundary is therein defined. It says:—

"The boundaries of the Kingdom of Boelongan are:—

"Next *Goenoeng Tabeer*: from the sea-strand; inland, the River Karangtiagau, from its mouth to its source; then the Batoe Boeokkian and the Mountain Palpakh;

"Next the *Solokh* [? Sulu] possessions; on sea the angle called Batoe Tinigat, and then the River Tawau.

"The following islands belong to Boelongan, viz., Terrakkan Nanoekan, and Jobittikh, with the islands belonging thereto."

The note from Count de Bylandt of the 1st December, 1882, concluded by asking which was the River Sibuco, which was really intended to be referred to in the Dent and Overbeck Concessions, and as a Memorandum on the subject was inclosed which commenced with these words: "Dans le nord-est de Bornéo plusieurs rivières qui du nord débouchent dans la Baie de Sainte-Lucie, paraissent se désigner sous le nom de 'Sibootoe,'" it was not thought advisable by Her Majesty's Government (as stated in my Memorandum of the 20th December, 1886) to continue a hopeless discussion, in the absence of more precise official information on the subject than was then forthcoming,

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* The date of this Contract was gi[illegible] by Count de Bylandt, in his note of the 1st December, 1882, as the *22nd January, 1878*, but the Dutch Minister for Foreign Affairs (M. Van der Does de Willebois) in his despatch to Count de Bylandt of the 13th March, 1884 (a copy of which was communicated to Earl Granville on the 17th of that month) pointed out that this was an error, and that the real date of the Contract was the 2nd June, 1878.

Sir R. Alcock, December 20, 1887.

although from more recent observations there would now appear to be no dispute as to the actual position of the real Sibuco River.

But by way of replying to Count de Bylandt's note of the 1st December, 1882, alternative proposals were made to settle the boundary dispute in a satisfactory and friendly manner, but these several proposals were declined by the Dutch Government.

It is not quite accurate, therefore, to say (as the Dutch note of the 22nd December last does) that their note of the 1st December, 1882, has remained up to this day unanswered ("restée jusqu'ici sans réponse").

It is true that the arguments put forward in Count de Bylandt's note of the 1st December, 1882, have not been answered *seriatim*; but as no new facts were produced, and the arguments put forward in that note had already been answered briefly in Lord Granville's note to Count de Bylandt of the 31st August, 1882, there was really no necessity for replying to it when no good was likely to result from the discussion.

Confidential Print, p. 10.

It may now be well to examine the Dutch note of the 13th March, 1884, a copy of which was communicated to Lord Granville on the 17th of the same month, and to which it is true no reply has yet been returned.

[The reason why it was answered is explained in my Memorandum of the 20th December, 1888.]

The note begins by calling attention to Count de Bylandt's note of the 1st December, 1882, which, it is said, proves the incontestable right of the Dutch to consider Batu Tinigat as their northern boundary, including within their territory, "par conséquent, le fleuve qui, sous le nom de Siboeko, se jette dans la mer au sud-ouest de Batoe Tinigat, traverse ce territoire."

It then alludes to the proposals made by Her Majesty's Government for settling the boundary questions by an inquiry on the spot or by arbitration, as well as to the offer made by the North Borneo Company to accept the 4th degree as a boundary-line by way of compromise (as also already explained in my Memorandum of the 20th December, 1888); but without bringing forward any further documents in support of the Dutch claim, it repeats over and over again that the Dutch Government have shown that the territory in dispute belongs to them, and that Her Majesty's Government have never replied to the arguments put forward by the Dutch Government, and especially to those contained in Count de Bylandt's note of the 1st December, 1882.

It would seem to be advisable, therefore, now to forward a reply to that note based upon the facts above stated.

But before leaving this subject it may be well to call attention to the great importance of not allowing the Dutch to enjoy the sole right of navigating the Sibuco and the numerous other rivers which flow from the interior of the Island of Borneo into the sea, in the Sibuco or Sainte-Lucia Bay, to the south of Batu Tinigat, as to admit such a claim might have the effect of depriving the Company of a large portion of their possessions, as the actual course of the Sibuco is not known, and it might be found to rise considerably to the north of Batu Tinigat, and to flow through a vast extent of territory in the interior belonging to the North Borneo Company.

The question of the navigation of these rivers, then, is really the only important point in dispute, and, as neither the Dutch nor the North Borneo Company are likely to surrender, willingly, the rights which they maintain they possess by cession from native Chiefs to the Sibuco and other rivers, I think a solution of the difficulty might be found by drawing the attention of the Dutch Government to the concluding paragraph of Count de Bylandt's letter of the 1st December, 1882, and which concludes with these words:—

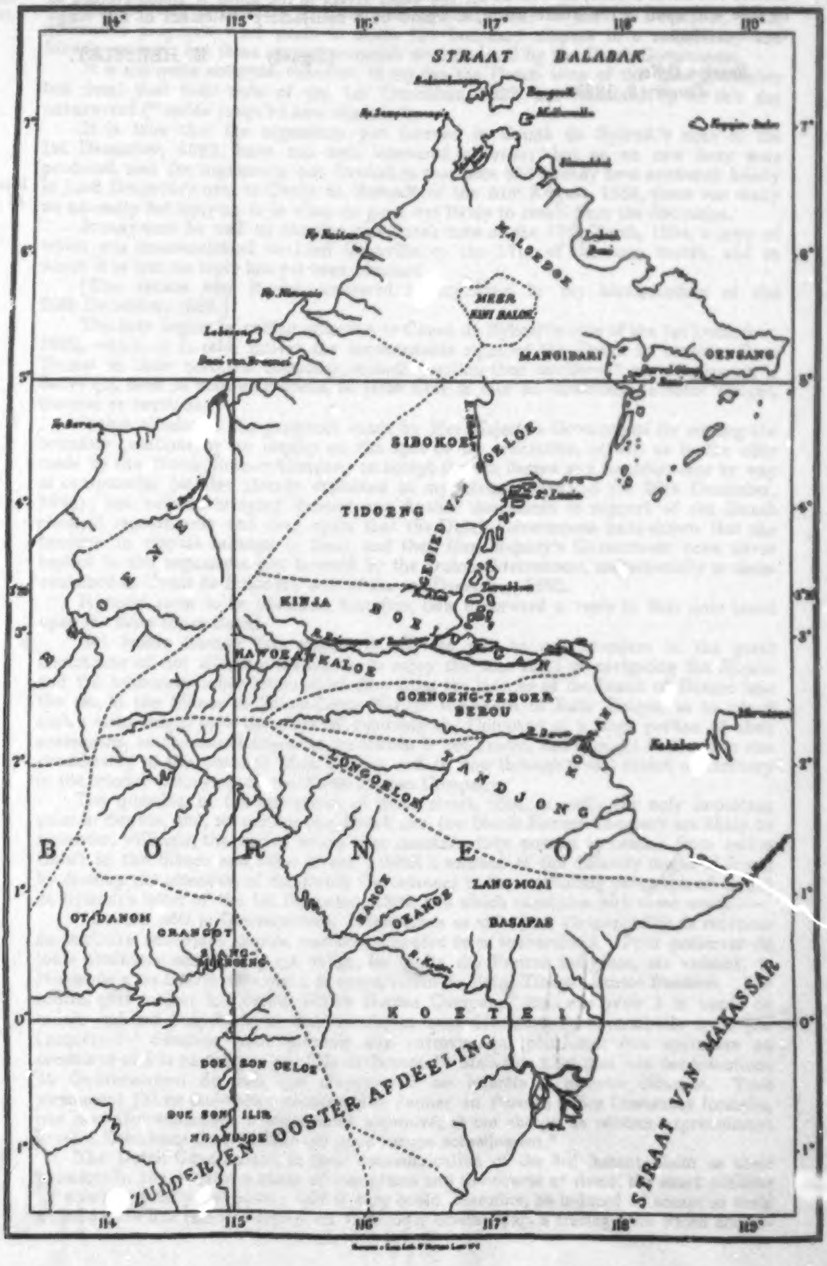
"De son côté le Gouvernement Néerlandais se voit dans l'impossibilité de renoncer au territoire ressortant depuis nombres d'années de sa souveraineté. Pour préserver de toute atteinte, comme elle y est obligé, les droits des Princes indigènes, ses vassaux, la Néerlande a un intérêt très réel à la conservation de Batoe Tinagat comme frontière. Par contre, quel intérêt la 'British North Borneo Company' peut-elle avoir à la bande de terrain qui est l'objet de la controverse, et quel détriment éprouverait-elle à ne pas l'acquérir? Serait-ce pour prévenir des entraves qui pourraient être apportées au commerce et à la navigation sur l'Ile de Bornéo? Mais rien n'est plus loin des intentions du Gouvernement du Roi que d'opposer à ces intérêts la moindre difficulté. Tout récemment j'ai eu moi-même occasion d'en donner au Foreign Office l'assurance formelle, que mon Gouvernement a entièrement approuvé, et me charge de réitérer expressément à votre Excellence dans l'affaire qui nous occupe actuellement."

The Dutch Government, in their communication of the 3rd instant, claim as their boundary in the interior a chain of mountains and the course of rivers, the exact position of which is totally unknown; and if they could, therefore, be induced to accept as their boundary the line recently drawn on their own official Map, a tracing from which accompanied my Memorandum of the 26th July, 1886, and would enter into an engagement to declare the River Sibuco, as well as all the other rivers to the south of Batoe Tinigat, to be free and open to the whole world, it would be a satisfactory settlement of this long-vexed question.

(Signed) E. HERTSLET.

Foreign Office,
January 9, 1889.

OUTLINE OF DUTCH MAP REFERRED TO IN SIR E. HERTSLET'S MEM. OF JANUARY 9. 1889.


114°
115°
116°
117°
118°
119°
7°
6°
5°
4°
3°
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1°
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STRAAT BALABAK
MEER KINI BALOE
MALOEDOE
MANGIDARI
OENSANG
SIBOKOE
TIDOENG
KINJA
MAWOEANKALOE
GOENOENG-TEBOER
BEROU
LONGOBLOM
TANDJONG
BORNEO
LANGMOAI
BASAPAS
OT-DANOM
ORANGOT
SIANG-MOENGENG
KOETEI
DOE SON OELOE
DOE SON ILIR
NGANDJOE
ZUIDDER EN OOSTER AFDEELING
STRAAT VAN MAKASSAR
Kaboboer
Lobok Bai
Batal Bani
St Lucia
Tarakhan

Annex MM 44

FIRST MEETING OF THE JOINT BRITISH-DUTCH NEGOTIATING COMMISSION, JULY 16, 1889

CONFIDENTIAL.

Proceedings of the Joint Commission appointed by the British and Netherland Governments for considering the question of the Boundary between the Netherland Indian Possessions on the Island of Borneo and the Territory belonging to the British North Borneo Company.

First Meeting, held at the Foreign Office, July 16, 1889.

Present:

For Great Britain—
Sir Philip W. Currie, K.C.B.
Sir Edward Hertslet, C.B.

For the Netherlands—
Count de Bylandt.
M. A. H. Gysberts.

The following gentlemen also attended for the purpose of furnishing information to the Delegates, viz.:—

Attached to the British Delegates—
Sir Rutherford Alcock, K.C.B.
Captain Johnson, R.N.

Attached to the Dutch Delegates—
M. A. E. Elias.
Captain Moreau.

THE Commission having met, *Sir P. Currie* made the following statement with regard to the bases on which it had been agreed between the two Governments that the Commission should be appointed:—

"This Joint Commission has been appointed by the British and Netherland Governments to take into consideration the question of the disputed boundary between the Netherland Indian possessions on the north-east coast of the Island of Borneo and the territory belonging to the British North Borneo Company.

"A desire has been expressed by the Netherland Government that the boundaries of the States of Sarawak, Brunei, and the British North Borneo Company respectively, which have recently been placed under British protection, should be clearly defined; and it has therefore been agreed between Her Majesty's Government and the Netherland Government that the Delegates should meet and discuss the merits of the boundary question on the following bases:—

"That the Commission should determine the following points:—

"1. Whether the Sultan of Boelongan had a right to claim, as a dependency of his State, the State of Tidoeng, in which Batu Tinagat and the River Tawao are declared by the Dutch to be situated; and to place the same under Dutch protection.

"2. Whether the Sultan of Sulu had a right to claim territory as far south as the Sibuco River, and to cede the same to Messrs. Dent and Overbeck, who handed over their Concessions to the British North Borneo Company.

"3. What was the actual position of the Sibuco River, which was alluded to in the Dent and Overbeck Concessions.

"It has been further agreed that all matters connected with the rights of the local Sultans, and the limits of their respective States, at the time when the grants were made by the Sultans of Sulu and Brunei, respectively, to Messrs. Dent and Overbeck, as well as all the points of the frontier which have been under dispute, shall be open to discussion by the British and Netherland Delegates; and, further, that, in the event of a satisfactory understanding being arrived at with regard to the disputed boundary between the Netherland Indian Government and the British North Borneo Company, on the north-east coast, in the neighbourhood of the Sibuco River, the British and Netherland Governments will proceed without delay to define, short of making an actual survey, and marking the boundary on the spot, the inland boundary-lines which separate the Netherland possessions in Borneo from the territories belonging to the States of Sarawak, Brunei, and the British North Borneo Company respectively."

Sir P. Currie then proposed that Sir E. Hertslet should first read to the Commission a paper which had been drawn up, setting forth the grounds on which the right of the British North Borneo Company to the territory in dispute is based.

This having been agreed to, *Sir E. Hertslet* read the following Statement, of which a copy was then communicated to the Netherland Delegates :—

"The British Government maintain :—

arliamentary aper No. 2514, . 118.

"1. That before the year 1800 the Sultan of Sulu owned territory on the north-east coast of Borneo, as far south as the 1st degree of north latitude, including Berou, Boelongan, and the Tidoeng territories.

bid., pp. 150, 181.

"2. That a portion of this territory was ceded by the Sultan of Sulu to the East India Company in 1764 and 1769; although these Treaties have been allowed to lapse.

"3. That the Sultan of Sulu claimed the territory of Tidoeng, which is said to have been ceded by the Sultan of Boelongan to the Dutch.

"4. That the Dutch admitted, in their Decree of the 28th February, 1846, that the Sulu territory extended at that time as far south as the 3rd degree of north latitude, which would include the whole of the Tidoeng country, and, consequently, the Sibuco River.

"5. That the Sulu Sultans have done nothing to forfeit their claim to any portion of this territory.

Parliamentary Paper No. 2815, . 16.

"6. That the independence of the Sultan of Sulu was recognized by the Dutch as recently as the 17th August and 9th October, 1880.

"7. That, at the time of the Dent and Overbeck Concessions, Acting Consul-General Treacher reported that the territory mentioned in the grants made to them was 'actually under Sulu rule, and occupied by Sulu Chiefs.'

Parliamentary Paper No. 2814, pp. 117, 118.

"8. That the Sultan of Sulu had therefore a perfect right to cede the portions of the territory which he did, in the Tidoeng district, 'as far as the Sibuco River,' to Messrs. Dent and Overbeck.

Parliamentary Paper No. 2815, p. 11.

"9. That the British Government have never recognized any other rights over the north-east coast of Borneo than those claimed by the Sultans of Sulu and Brunei.

"10. That the cessions made by the Sultans of Sulu and Brunei to Messrs. Dent and Overbeck on the 29th December, 1877, and the 22nd January, 1878, included Batu Tinagat, the Tawao River (although those places were not specially mentioned therein), and all the territory on the north-east coast, 'as far south as the Sibuco River' (without specifying exactly where that river was situated), as well as all the islands within 3 leagues of the coast belonging thereto.

Mr. Cook, September 8, 1887.

"11. That the Dutch flag had never been hoisted in any of the rivers to the north of Boelongan, that is to say, in any part of the Tidoeng country, previous to the date of the Contract with the Sultan of Boelongan of the the 2nd June, 1878, which Contract was signed after the date of the Dent and Overbeck Concessions of the 29th December, 1877, and the 22nd January, 1878.

"12. That in an official Colonial Report laid before the Netherland States-General in 1877 it was stated that the Sesajah (which is separated from the Sibuco by two other river districts) was the northernmost boundary of the Dutch possessions on the east coast of Borneo.

"13. That the Sibuco River mentioned in the Dent and Overbeck Grants was that situated in about 4° 4' north latitude, and was not the 'Sibuco' incorrectly marked on the Admiralty Chart about that date as being near Tawao River before any survey had been made.

"14. That the *secret* Dutch Decree ordering the Dutch flag to be hoisted at Batu Tinagat was not issued until the 31st July, 1879 (after the issue of the Dent and Overbeck Concessions of the 29th December, 1877, and the 22nd January, 1878); and that on the 4th July, 1880, the Resident of the British North Borneo Company formally protested to the Dutch Commodore against the hoisting of the Dutch flag on the Tawao River: that position being within the boundaries of the territory of the Company as ceded to them by the Sultan of Sulu.

"15. That a Royal Charter was granted to the British North Borneo Company on the 1st November, 1881, in which the cessions made to the Company by the Sultans of Sulu and Brunei were fully set forth.

"16. That on the 7th September, 1883, the flag of the British North Borneo Company was hoisted on the *south* bank of the Sibuco River in north latitude about 4° 4', and the fact of the Company's claim thereto recorded by cutting the letters 'B. N. B. 83' on a mangrove tree.

"17. That the representative of the Netherland Government was so informed, in writing, by Mr. Treacher, at that time Governor of the British North Borneo Company, on the following day (8th September, 1883), when the position of the Sibuco River was pointed out to that official on a Dutch Chart.

"18. That on the same day (8th September, 1883) another formal protest was handed to the Dutch Controller at Tawao against the hoisting of the Dutch flag on the Tawao River.

"19. That on the 12th May, 1888, an Agreement was entered into between Her Britannic Majesty's Government and the British North Borneo Company, in which it was stated that the Company's territory, therein called 'the State of North Borneo, comprised all the territories specified in the Royal Charter of Incorporation of the 1st November, 1881.

"20. That in a *Map* published in 1842 by special permission of the King of the Netherlands, and under the superintendence of the Colonial Minister, the territory of Sulu was coloured as extending as far south as about 3° 40'.

"21. That in a *Map* published by Lieutenant Melvill de Carnbee, of the Dutch navy, in 1846, the Atas River was marked as being the northern boundary of the Dutch possessions.

"22. That in another *Map* published by Lieutenant Baron Melvill de Carnbee in 1848 the Atas River was again marked as being the northern boundary of the Dutch possessions; as separating the Tidoeng territory from Boelongan territory; and the territory above that river as belonging to the Sultan of Sulu.

"23. That in a *Map* prepared by Petermann in 1851, and issued to the subscribers of the Borneo Church Mission, the territory belonging to the Sultan of Sulu was marked as commencing from the north of the Atas River.

"24. That in a *Map* published at Breda in 1857 the territory of the Sultan of Sulu was also marked as commencing from the north bank of the Atas River, and as if that river separated the Tidoeng territory from Boelongan territory.

"25. That in a *Map* published by Kuijper in 1866 the Tidoeng country was coloured as being situated outside the Dutch boundary.

"26. That the north-east coast of Borneo has never been carefully surveyed, and that consequently the position of the Sibuco River, until very recently, has been incorrectly drawn on British, Dutch, and other Charts; and

"27. That the Sultan of Boelongan had no legal authority to place under Dutch protection territory in the Tidoeng country which belonged to the Sultan of Sulu.

"A copy of the Royal Charter of Incorporation of the 1st November, 1881, in which the grants made to Mr. Dent and another are fully described; a copy of the Agreement entered into between Her Britannic Majesty's Government and the British North Borneo Company on the 12th May, 1888; and tracings from the Maps above alluded to, are now placed before the Joint Commission."

Count de Bylandt observed, with regard to the Maps mentioned in this Statement, that he did not consider it was worth while to go back to Maps or Charts of so old a date as 1842. He stated that the Dutch claimed nothing more than the frontier they had acquired in 1850 through Agreement with the Sultan of Boelongan; that Baron Overbeck, a private individual, had arrived in Borneo, and without consultation with the Netherland authorities, had laid down the boundaries of Sulu in accordance with what was stated to be an official Dutch Chart. This Chart, the date of which was not mentioned, Count de Bylandt said he had no knowledge of, and would like to see it if it could be produced.

Sir E. Hertslet observed that it was not until the 31st July, 1879, that the Dutch Government determined by a secret Decree to hoist their flag for the first time at Batu Tinagat, subsequent to the date of the Dent and Overbeck Concessions, and that the mere fact of the Dutch flag having been hoisted in a place belonging to Sulu would not make that place Dutch territory.

Count de Bylandt admitted this to be correct in principle.

Sir P. Currie pointed out that the real question at issue was, on the one hand, what were the limits of the Sultan of Sulu's territory; and, on the other hand, what were the limits of the Sultan of Boelongan's territory.

Count de Bylandt assented. He remarked that a distinct proof of the *fact* that Tidoeng did not belong to Sulu was that the population paid taxes to the Sultan of Boelongan; that they had often claimed protection from the Netherland authorities; and had themselves denied that they had any relations with Sulu.

M. Gysberts stated that special stress seemed to be laid on the assertion that the Dutch flag had not been hoisted at Batoe Tinagat before 1879. In answer, he could state that the Dutch flag had been hoisted throughout all the Tidoeng countries in 1849, as was proved by the following communication from the Dutch Resident in Borneo, which was read to the Commission:—

M. Gallois to the Governor-General of Netherland India.

" *Banjermassin,*
" (Translation.) *August 24, 1849.*

" I take the liberty to forward herewith to your Excellency a copy of a letter of the Civil Commander of Koetei and the East Coast of Borneo, dated the 22nd May last, with Annexes, to the contents of which I refer myself.

" The said Commander, having visited on his last journey the said localities, found the Province of Tidoeng stood under Berou and Boelongan, and arrived, in consequence, to the very plausible conclusion that, from want of local knowledge, an incorrect statement had been made in the Government Decree of the 28th February, 1846.

" The Kampong Atas, mentioned as being the frontier between Boelongan and Tidoeng, is situated to the north of Tidoeng, and is therefore the frontier between Tidoeng and the country of Solok.

" I have therefore the honour to submit to your Excellency's approbation the actions of the above-mentioned Civil Commander, and to suggest that the said Government Decree should be altered.

" The Resident in charge,
(Signed) " GALLOIS."

" *M. von Dewall to the Resident of the South and East Coast of Borneo.*

" *On board of the Government's schooner 'Nicht,' sailing along the Coast of Berou, May 22, 1849.*

" Article 2 of the Government's Decree of the 28th February, 1846, states that the territory of the east coast of Borneo shall extend in northerly direction up to Kampong Atas, forming the frontier of the Sultanate of Boelongan, which is under Berou, and the territories of Tidoeng, and situated about 3° 20′ northern latitude.

" I had already heard with some certainty at Koetei that Atas was the first place belonging to Solok to the north of Tidoeng, and that the country of Solok was independent.

" In Berou I was informed later that both Boelongan and Tidoeng were in former times belongings of Berou, but that, by marriages of Boelongan Princes with Berou Princesses, Boelongan became in time and tacitly an independent Principality which assumed the supremacy over the Tidoeng territories.

" The Amiril of Boelongan declared he was the legal Sovereign of Tidoeng, and that Atas was the first Settlement ('Kampong') on Solok territory. He mentioned to me the following eight Tidoeng Princes, which are independent from each other, as being his vassals and relatives:—

" Pangeran Khahar, Chief of the River Sekattakh-Djilandjan;

" Pangeran Besar, Chief of the River Sekattakh-Boedjie;

" Pangeran Depattie, Chief of the River Beteyan;

" Pangeran Mohhammed, Chief of the Kampong Sesayap, and dependencies of the River Sebeuwang;

" Panimbahan, Chief of the Kampong Sebeuwang, and of the countries situated above the river of the same name.

" Pangeran Djamaloel, Chief of the people of the Island of Tarakkan, at present temporarily within ('binnen') the River Sambakkoeng;

" Dato Maharadjah Dindah, Chief of the River Sambakkoeng;

" Pangeran Moeda, Chief of the Island of Nanoekkan.

" Now I did not doubt any longer that Tidoeng, being a dependency of Boelongan or Berou, was Netherland territory, and that the situation of Atas, as given in the above-mentioned Decree, was incorrect.

"I considered it, therefore, my duty to visit that country, and to confirm in it the Netherland authority.

"Before doing this I asked the Sultans of Berou and Boelongan to give me a written declaration about their relation to each other, as well as about their relation to Tidoeng, in order to show this document to the Tidoeng Chiefs, and to hear their opinion about it. Both parties declare therein to be the legal Sovereigns of Tidoeng. Boelongan denies also ever to have been dependent of Berou, which, on the contrary, the latter assure to have been the case.

"The Amiril of Boelongan declares that the River Tawan, and Tandjoeng-Batoe-Tinagat, to the south of Atas, is the frontier of Solok territory.

"It was indifferent to me in the present case who of the two was right, as my only object was to prove beyond the possibility of contradiction, by an authentic document, that Tidoeng is a Netherland possession.

"Then I went to the different parts of that country in company with a relative and one Mantrie of the Amiril of Boelongan, questioned every Chief, with the exception of those mentioned hereafter, before the assembled population, on the subject of their relation to the Sultans of Boelongan and Berou, and made them acquainted with the relation of these Princes to the Government. All of them confessed to be subjects of the Sultan of Boelongan. Thereupon, I made every one of them sign the declaration of the same, and handed to them, in the name of his Excellency the Governor-General, a Dutch flag and a document in Malay letters of the following contents:—

"(My seal and signature.)

"'This Decree issued by me, the illustrious gentleman Von Dewall, commanding all the countries on the east coast of the Island of Kalamautan (Borneo), and specially from Tandjoeng Sielat to Batoe Tinagat, is given to Mr. N. N., who commands under the orders of the Sultan of Boelongan on the River (or on the Island) N. N.

"'I hereby state that all Princes from the west to the south of the Island of Kalamautan (Borneo) both great and small, from Sambas to Boelongan inclusive, have placed themselves under the protection of the Netherland flag, and acknowledge that they are subject to the orders of that Government. I further hereby state that all Chiefs of the district of Tidoeng have acknowledged themselves as subject to the dominion of the Sultan of Boelongan, wherefore it is evident that the said Chiefs will also comply with whatever the Sultan of Boelongan may have agreed upon with the Government.

"'I further hereby state that I am unable to deliver any Netherland flags to those Chiefs of Tidoeng who have not yet met me.

"'And I now declare that I give, in the name of his Excellency the Governor-Général of Netherland India, a Netherland flag to N. N., Chief on the River (or on the Island) N. N., to serve as a proof that they in effect stand under the protection of the Netherland flag.

"'The Netherland Government hereby further undertakes to protect them all, and to remove from them all persons who might be ill-disposed toward them.

"'I further give to N. N. the five following as my commands:—

"'1. You shall never rebel against the Netherland Government.

"'2. You shall not protect any pirates in the rivers.

"'3. You shall not receive in your rivers any Europeans for the purpose of settling, other than Dutchmen, and should Europeans establish themselves by force in your country, you shall give notice to the Sultan of Boelongan.

"'4. You shall give proper assistance to all vessels which strand in your waters, and you shall not make slaves of the persons on board, but shall deliver them to your Sultan.

"'5. You shall not molest the traders who may come with their ships into your waters, but shall give them proper assistance.

"'So be it.

"'Given at,' &c.

"The flags were accepted everywhere with deference and eagerness, and were flying immediately from the houses of the Chiefs. On my arrival within the River Sambakkoeng, the Chief had left some days ago for Boelongan.

I therefore placed the flag in the hands of his father-in-law, Pangeran Athlian Oedien. I also heard in Sambakkoeng that the Chief of the Island of Nanoekkan was on his way to Boeloengan; besides, I could not effectuate a crossing to that island in my row-boat. As this Chief had not yet arrived at Boeloengan on my return to that place, I handed the flag to the Amiril himself.

"Before my departure to Tidoeng I met the Chief of Batayang at Boeloengan, to whom I handed the flag on board of the Government schooner 'Niobé,' whilst a salute of twenty-one guns was fired, which was answered by the Amiril. Later on I visited the Pangeran Depattie at Batayang itself. On my arrival I found that the flag was hoisted.

"The faithfulness of the Tidoeng Princes to the Government ('Kompanice') is quite satisfactory. They consider the Government as their master and protector, above the Amiril of Boeloengan.

"The Mahommedan population of Tidoeng is about 3,000; the population of Berceesee (a tributary 'Dayak' State) about 1,600. The other inland regions are well populated, but mostly independent.

"I forward herewith the above-mentioned declarations of the Sultans of Berou and Boeloengan, and have the honour to request you should apply to the Government for the approbation of my doings in general, and also of the way in which I have made these as yet quite unknown States recognise and respect Dutch authority, and also to suggest that in the alteration of Article 2 of the Decree of the 28th February, 1846, the following statement should be made:—

"That the territory of the east coast of Borneo shall extend to the north upwards to the River Tawang and Tandjoeng-Batoe-Tinagat, which form the frontier between the dependency of Boeloengan, Tidoeng, and the territories of Solok, and are situated to the south of the Solok Kampong Atas; and that also the Tidoeng Islands, Tarrakkan, Nanoekkan, and Sebittikh shall belong to it.

"Later details concerning Tidoeng and its population will be found, if wanted, in my journal from the 12th January last until the 5th instant.

"A Map showing the very curious inland water communication between the Kayan, the principal river of Boeloengan, and all the Tidoeng rivers, will be forwarded by me at a later date.

"I could make no investigation as to the possibility of navigation along the coast of Tidoeng with the Government schooner 'Niobé,' as I could not find a pilot, and time was not sufficient.

"The Civil Commander of Koetei, on
the East Coast of Borneo,
(Signed) "A. von Dewall."

Sir E. Hertslet having called attention to certain Dutch Maps which appeared to support the contention of Her Majesty's Government,

Count de Bylandt stated that there existed no official Dutch Maps whatever previous to that of 1887.

Captain Johnson observed, with regard to an old Admiralty Chart of the Borneo coast, to which reference had been made by Count de Bylandt, that he had ascertained, by experience on the spot, that this Chart was so incorrect that no reliance whatever could be placed on it with regard to the position of the Sibuco River.

Some further discussion ensued, when it was agreed, on the proposal of *Sir P. Currie*, that the Netherland Delegates should, in the first instance, reply point by point in writing to the different arguments and considerations advanced in the British Case.

The Commission adjourned until Friday, the 19th July, at 12 o'clock.

Annex MM 45

SECOND MEETING OF THE JOINT BRITISH-DUTCH NEGOTIATING COMMISSION, JULY 19, 1889

CONFIDENTIAL.

Proceedings of the Joint Commission appointed by the British and Netherland Governments for considering the Question of the Boundary between the Netherland Indian Possessions on the Island of Borneo and the Territory belonging to the British North Borneo Company.

Second Meeting, held at the Foreign Office, July 19, 1889.

Present:

For Great Britain—
  Sir Philip W. Currie, K.C.B.
  Sir Edward Hertslet, C.B.

For the Netherlands—
  Count de Bylandt.
  M. A. H. Gysberts.

The following gentlemen also attended for the purpose of furnishing information to the Delegates, viz.:—

Attached to the British Delegates—
  Rear-Admiral R. C. [illegible]yne, M.P., C.B.
  Mr. Alexander Cook.

Attached to the Dutch Delegates—
  M. A. B. Elias.
  Captain O. Moreau.

THE Commission having met the *Netherland Delegates* communicated the following reply to the British Case, submitted to the Commission at its first Meeting:—

"1. The rights of the Netherlands on the east coast of Borneo up to and including the Principality of Berouw, and all its former dependencies, date from the year 1787, and have been established and confirmed anew by the Treaty concluded in 1812 between the British Commissioner Hare and the Sultan of Bandjermasin, who ceded thereby to the English East India Company Perou, Gessir, Pagattan, and Pululaut, 'with all their respective dependencies,' to which belonged, among others, the Sultanat of Boeloengan, with inclusion of the Tidoeng *territories*.

"2. Although this assertion does not affect the question, there is no evidence showing that the *litigious district* had been ceded by the Sultan of Sulu by the above-mentioned Treaties, much less that he would have been justified in doing so.

"3. The claim of the Sultan of Sulu cannot be proved.

"4. The geographical knowledge of the east coast of Borneo was very deficient in 1846. This is the reason why, in the Decree of the 28th February, 1846, the Netherlands expressly reserved all rights which they might see fit to claim beyond the limits mentioned therein. On this Decree becoming known the Netherland official in command on the east coast of Borneo was informed by the native Chiefs of that part of the country that Kampong-Atas was situated to the north of Tidoeng, and was the southernmost point of the Sulu possessions.

See his Report of the 22nd May, 1849, No. 21.

"By this it became evident that the latitude (3° 20′) mentioned in the Decree of 1846 was not correct. In consequence, the description of the frontier was altered, by Decree of the 27th August, 1849, published in the 'Indische Staatsblad,' No. 40, in as far as the coast was concerned, which in those days was the only point of importance.

"Besides, it appears from the communications of the Minister for the Colonies to the States-General in 1850, which have been published, that in the river districts of some of the smaller streams Boeloengan Chiefs were settled so far north as 4° 20′ northern latitude.

"5. The Sultan of Sulu, never having been settled in the disputed district, his claim cannot be recognized, and there can therefore be no question of *forfeited claims*.

"6. A recognition of the independence of the Sultan of Sulu by the Netherlands can only apply to that part of his territory which he actually and legally possesses.

"7. Admitting that the statements of Mr. Treacher should be correct in so *far* as the regions are concerned to the *eastward* of Batoe Tinagat, N.B.—For confirmation, hear the statements of Captain O. Nerses.

they certainly are incorrect as to the disputed district which was not occupied by Sulu Chiefs.

"8. On the ground of the above statements, the arguments mentioned in this paragraph cannot be upheld. Besides, it may be stated that Malay Princes never choose rivers as boundaries between their States, but always the watershed (chains of mountains, mountains, or rocks). This custom has been recognized expressly by the British North Borneo Company in their official organ ('The British North Borneo Herald' of the 1st November, 1888, p. 545). This is a proof that the Sibuco River was quite arbitrarily adopted as frontier by Baron von Overbeck. The frontier of Netherland territory cannot be altered by the one-sided delimitation chosen by a private person.

See Blue Book, "Spain (1882)," No. 1.

"It was evidently the intention of Baron von Overbeck to extend the cession as far only as the Netherland frontier, but misled by insufficient Maps, for which the Netherland Government cannot be made responsible, he transgressed the limits in good faith. He also was not acquainted with our Contract of 1850 with Boelongan, and with our actions in 1849 in those districts.

"9. The legal rights of the Netherlands over the territory in dispute were not dependent on the recognition by Great Britain.

"10. The assertion that Batoe Tinagat and the Tawan River, although not specially mentioned in the cessions, should nevertheless be included therein, would only be exact if it is assumed as irrefutable that by the Sibuco River mentioned in the cession, the real Sibuco River was meant. That this is not irrefutable appears from what is said under 13.

"On the contrary, the legal rights of the Netherlands over these points are proved, among other things, in the already mentioned Report of the Netherland official in command on the East Coast of Borneo of the 22nd May, 1849.

"11. This statement is incorrect, as it appears from the above-mentioned Report that Dutch flags were distributed and hoisted in the Tidoeng districts.

"Besides, it must be added that the Treaty with Boelongan of the 2nd June, 1878, was nothing else than a renewal of the Treaty of the 12th November, 1850, concluded with the preceding Sultan, who had died already in 1874, and in which Batoe Tinagat and the River Tawan were indicated as boundary.

"12. This assertion has been contradicted in a despatch of the Netherland Minister for Foreign Affairs to Count de Bylandt of the 19th March, 1889, copy of which was left at the Foreign Office by Count de Bylandt on the 27th March following:—

"'Il n'était pas question dans cette communication de fixer les frontières ou de résoudre des questions territoriales, mais seulement d'indiquer les parages où l'on allait agir contre la piraterie; ainsi, les navires de guerre, auxquels la communication se rapporte, n'avaient pas eu mission de stationner à un point indiqué, mais de croiser en pleine mer devant les côtes de quelques districts, savoir, les districts de Berouw, de Boelongan, et de Sesajap. Or, Sesajap est le district principal des États de Tidoeng qui se désignaient d'ordinaire sous le nom général de Sesajap; il est donc évident que la conclusion qu'on forme de la communication de 1887 n'est pas justifiée et ne saurait en aucune façon porter atteinte à la valeur du Contrat conclu avec Boelongan en 1850.'

"13. Taking into consideration the nationality of Baron von Overbeck, it is very possible that in selecting the Sibuco River as boundary, he meant no other river than the one which is indicated as such in the surveys of the Austrian frigate, 'Erzherzog Friedrich,' which have been taken over in the British Admiralty Charts.

"14. Before it was brought to the knowledge of the Netherland Indian Government that the Netherland rights were being encroached upon on a part of the East Coast of Borneo, they had no special reason for hoisting a Dutch flag exactly on a spot on the boundary-line, and to protect the Netherland legal rights there.

"Up to now we have not hoisted a Dutch flag on the undisputed frontier on the West Coast of Borneo, at Tandjong Datoe.

"15. As little as by the cessions themselves, the early existing rights of the Netherlands cannot be prejudiced by the Charter of the 1st November, 1881. Before the grant of this Charter, a note was handed to Sir Julian Pauncefote by Count de Bylandt in September 1878, in which the legal rights of the Netherlands were stated.

"16, 17, and 18. The Netherland Government lost no time in protesting against this arbitrary action of the British North Borneo Company in a note dated the 8th October, 1883. Besides, the British North Borneo Company immediately hauled down their flag.

"19. See answer to 15:

"20. The Map which is mentioned here is not published under the *superintendence* of the Netherland Minister for the Colonies, but ("onder zyn bestuur") *during his tenure of office*, and has no official character.

"21, 22, 23, 24, and 25. None of these Maps have any official character, as has already been stated for some of them in the above-mentioned despatch handed to the British Government by Count de Bylandt on the 27th March, 1889.

"26. This very correct remark applies and confirms that none of the above-mentioned Maps are trustworthy.

"27. The Netherland Government have exercised since many years—according to declarations of Chiefs and population—a *de facto* authority over the Tidoeng territories, which since a very early date were dependencies of Boeloengan. The Sultan of Sulu has never exercised any authority whatever in these countries, except such as he may have arrogated himself during his occasional raids. When sometimes it so happened that they were driven back by these raids, the population of Tidoeng used always to settle temporarily, in expectation of their return, in the territory of the Sultan of Boeloengan, acknowledging thus their allegiance to him.

"The Memorandum of the British Government shows plainly that the British North Borneo Company is in possession of Concessions of the Sultans of Sulu and Brunei, but the Company *fails to give any proof of the fact that these Sultans had legal rights over* all of the countries mentioned in these Concessions.

"The Netherlands, on the contrary, have proved, by producing the Report of their official in command on the East Coast of Borneo of the 22nd May, 1849, and by the declarations of Chiefs and population therein contained, and by the Contract they have passed in 1850 and 1878 with the Sultan of Boeloengan, that they *exercise a legal supremacy over that land, and that since 1849 they have taken actual possession of it.*

"The first European official who visited these regions, long before the Concessions were obtained by Messrs. Overbeck and Dent, and who commanded there, was in the service of the Netherland Indian Government."

It was then proposed by *Sir P. Currie*, and agreed to by *Count de Bylandt*, that the Commission should proceed to examine the statements contained in the British Case, with the replies thereto of the Netherland Delegates, point by point.

With regard to paragraphs 1 and 2 of the British Case, it was agreed that, under the circumstances, there was no advantage in carrying the discussion back to so old a date.

On paragraph 3, with regard to the rights of the Sultan of Sulu to cede the territory which he did, *Sir P. Currie* maintained that the fact of the cession was in itself evidence that the Sultan believed the territory to be his, and that he had the right to dispose of it.

Count de Bylandt held the view that the mere fact of cession was no proof of Sulu rights, as to which he asked for the production of documentary evidence. He observed that the only people who had a right to contest the territory were those inhabiting its borders ("peuples limitrophes"), and that the English Company at the time had only been established in the neighbourhood a few months.

M. Gysberts stated that, on the other hand, the Dutch had been in occupation of the country for forty years previously; and he added as a proof of how little reliance could be placed on the claims of native Chiefs, that the Sibuco had been ceded to the North Borneo Company by the Sultans of both Brunei and Sulu, as evidenced by the Concessions.

On paragraph 4, *Sir P. Currie* maintained that the Decree of the 28th February, 1846, was good evidence that the Boeloengan territory did not extend further north than latitude 3° 20'.

M. Gysberts recalled the fact that this had been amended by a later one issued in 1849. Moreover, it had been expressly stated in the Decree of 1846, that the arrangement was a provisional one.

Sir P. Currie could not admit that the Decree of 1849 was any rectification of the Decree of 1846 so far as the boundary of Boeloengan was concerned. It merely stated that the Dutch boundary was at the Songei Atas River. He observed that the English claims were based on the cession by the Sultan of Sulu and the Dutch claims on the cession by the Sultan of Boelongan. The Dutch claim being founded on the limits of the Sultan of Boelongan's territory, Her Majesty's Government were justified in regarding the boundary of Boelongan as the boundary of the Dutch territory. He called attention to the fact that the Treaty of 1850 was never communicated to Her Majesty's Government.

Count de Bylandt maintained that there was no necessity for such communication; as the Treaty was only a confirmation of an older Treaty concluded with the same Sultan; and that the Treaty of 1878 with his successor had been duly communicated to the British Government.

Sir P. Currie stated that the fact remained that the Treaty of 1850, which was really the only one of importance, had been kept back, and that neither Her Majesty's Government nor the Company had had any knowledge of it.

Paragraph 5.—*Admiral Mayne* observed that when the Company obtained their Concession from the Sultan of Sulu, they had taken it for granted that he had a good claim to the territory as far as the Sibuco River, having no idea that part of the district was claimed by the Dutch. As authority for such assumption, he quoted the following extract from the "Journal of the Indian Archipelago and Eastern Asia," published in 1848 at Singapore:—

"The parts of Borneo on which Netherlands does not exercise any influence are:

"(*a*.) The States of the Sultan of Brunei, or Borneo proper, extending from Tanjong Datu on the west to the River Kemánis on the east, situated on the north-west coast.

"(*b*.) The State of the Sultan of the Sulu Islands, having for boundaries on the west the River Kemánis, the north and north-east coasts, as far as 3° north latitude, where it is bounded by the River Atas; forming the extreme frontier towards the north with the State of Berou, dependent on the Netherlands.

"(*c*.) All the islands of the northern coasts of Borneo."

Count de Bylandt had no doubt the Company had acted in perfect good faith in the matter. He remarked, however, that greater prudence had been shown by the American Trading Company, who had accepted 5° north latitude as the boundary of Sulu territory, thus leaving a degree between themselves and the Dutch frontier.

Sir P. Currie observed that as by the Decree of 1[illegible] Dutch territory did not go beyond 3° 20′, the North Borneo Company believed that they had left a considerable zone between their Concession and the territories of Holland.

Admiral Mayne stated that the Sultan of Sulu had himself assured Mr. Cook that the Sultan of Boelongan was his vassal; that he had conquered him and taken possession of his territory, though in consequence of a verbal agreement he had subsequently retired, leaving the Sultan of Boelongan in possession.

It was urged by the Netherland Delegates that the fact of retirement left the Sultan of Boelongan independent; but it was agreed on both sides that this matter was one of "ancient history."

On paragraph 7, *Captain Meroes* stated that he had navigated all the Tidoeng waters. On one occasion the Chiefs had complained to him that, after having paid tribute to the Sultan of Boelongan, their taxes had been demanded from them a second time, against which they had appealed to him, although they admitted the perfect right of the Sultan of Boelongan to levy taxes in Tidoeng territories.

Admiral Mayne observed that the Sultan of Boelongan had assured Mr. Cook that real Boelongan territory ended at Atas, and that the natives had no idea of what had been signed in 1850.

In reply to a question by Sir P. Currie, *Mr. Cook* stated that he had heard nothing, and seen no signs of the exercise of authority by the Dutch on the spot.

Captain Meroes disputed this last statement, and affirmed that he himself had been there as Chief Officer and Representative of the Netherland Government.

Count de Bylandt complained that the statements made by the Representatives of the Company were only hearsay, and would imply that the Dutch authorities had made use of worthless documents, and he must decline to accept such a position for his Government. He stated that the British evidence was founded only on reports, whereas that of the Netherlands was based on official documents and Government Decrees.

Sir P. Currie maintained that the British Case was founded on the Concession from the Sultan of Sulu, supported by the reports of responsible British officers, and that their statements were as worthy of credence as those made in support of the Dutch Case.

Admiral Mayne observed that, had the Company possessed any knowledge of the Treaty of 1850, they would have called upon the Sultan of Sulu for detailed information as to the limits of his territory; but not being aware that any doubt had ever been raised as to those limits which were matters of common notoriety, they had not thought it necessary to do so.

Count de Bylandt referred to the reasons already given by him why the Treaty in question was not communicated.

A discussion having been raised as to the date at which the Dutch flag was first hoisted at Batoe Tinagat, the British Delegates maintaining that it was never displayed until after the date of the Concession to the Company, while the Dutch Delegates declared that flags had been distributed and hoisted by the natives throughout the whole district many years before: in 1849.

Sir E. Hertslet asked whether it was not a fact that on the 4th July, 1880, the British North Borneo Company had formally protested against the hoisting of the Dutch flag at Batoe Tinagat.

Count de Bylandt admitted that this was so.

Admiral Mayne reminded the Commission that the acceptance of flags by the natives of uncivilised countries was no proof of sovereignty, as they were generally ready to receive any number of such ensigns from any quarter.

A discussion then ensued with regard to the statement contained in the reply of the Netherland Delegates to paragraph 8, to the effect that Malay Princes never choose rivers for their boundaries, but always the watershed, chains of mountains, &c.

The *British Delegates* pointed out that in the documents put forward by the Netherland Delegates the Rivers Atas and Karaullegan were distinctly mentioned as defining boundaries.

In reply to further observations from *Count de Bylandt* as to the unquestionable validity of the cession of territory up to Batoe Tinagat by the Sultan of Boeloengan in 1850.

Sir P. Currie contended that the Sultan of Boeloengan had ceded to the Dutch what he had no right to cede, Batoe Tinagat being to the north of Sibuco, and therefore within the territory of the Sultan of Sulu.

M. Elias observed that the Decree of the Governor-General of Netherland India of the 2nd February, 1877, had also specified the Islands of Sibittick, Nanoekkan, and Tarakkan as belonging to the Netherlands.

On paragraph 9, *Sir P. Currie* repeated that the Netherland claims were dependent on the cession of the Sultan of Boeloengan, who had no right to cede these territories to the Dutch.

Captain Morren observed that there could be no question of cession, as the Sultan of Boeloengan, with all his dependencies, was the vassal of Holland.

M. Elias brought forward the following documents (in the Dutch language) to prove that the Dutch Government had claimed their frontier before they had any knowledge of the cession by the Sultan of Sulu to the Company:—

1. Resolution of the Governor-General of Netherland India, February 28, 1846, amended by:

2. Resolution of the Governor-General of Netherland India, August 27, 1849.

3. Extract from a communication to the States-General respecting the ultramarine possessions of the Kingdom of the Netherlands made by the Minister for the Colonies in 1850, and which was published in the official Gazette.

4. Decree of the Governor-General of Netherland India, February 2, 1877.

With regard to the position of the Sibuco River, referred to in paragraph 10, Mr. Cook stated that whatever might be the case with Europeans, there was no doubt in the mind of the natives that it was the river shown on the Dutch Chart under latitude 4° 20′ N.

Count de Bylandt called attention to a report by Acting Consul-General Treacher, stating that the Sultan of Sulu claimed territory as far as Balik Pappan, and he asked what reliance could be placed on the statements of a Chief who was capable of putting forward such exaggerated claims?

Sir P. Currie pointed out that this claim was not in any way put forward by Her Majesty's Government, and that there could be no doubt that in former times the Sultan of Sulu's territory extended far to the south.

He observed that the Minister of the Colonies at the Hague had assured the Dutch Chamber in

1879 that the cessions made to England did not constitute any encroachment on the rights and privileges accorded to Holland, as showing that the Dutch Government did not then take exception to the limits of the Sibuco defined in the Concession made to Mr. Dent.

Mr. Elias replied that, although not remembering at present all the Minister for the Colonies may have said on that occasion, he could assure the Commission that his Excellency had no knowledge at that moment of the text of the cession of the Sultans of Sulu and Brunei to Messrs. Overbeck and Dent.

Count de Bylandt stated that the question at issue was really one of prestige. It was impossible for the Dutch to retire without a loss of dignity in the eyes of the natives, but his Government were perfectly ready to grant absolute freedom of navigation of all rivers in the disputed territory to the Company, and that he considered it was in the interests of the Dutch to facilitate in every way the operations of the Company.

Sir P. Currie observed that the prestige of England must also be considered. He thoroughly appreciated the conciliatory language of Count de Bylandt, and said that although the British Delegates were quite prepared to submit replies to the other statements contained in the Dutch Memorandum, he would be very glad if the question could be settled by an amicable compromise. He inquired whether the Dutch Government would be prepared to consider the question of an arrangement on the basis of a compromise of the territorial claims on the coast-line, with free navigation of the rivers running through the disputed territory?

M. Gysberts observed that it was impossible for his Government to give up territory held by them on the north-east coast of Borneo, though they would be most ready to come to any arrangement as regards the interior.

Sir P. Currie stated, in reply, that the question under discussion was that of the coast, and that M. Gysberts' last declaration amounted to a *non possumus*. He could see no object in the appointment of the Commission if the Dutch Government had decided beforehand to make no Concessions with the view of coming to an amicable arrangement.

The declaration showed that it would be useless for Her Majesty's Government to make any definite proposal without an assurance that the Netherland Government were ready to accept the principle of a compromise. If the principle was once accepted, he was ready to suggest an arrangement on that basis.

After some further discussion, *Count de Bylandt* agreed to submit the proposal to his Government, reserving for them the right of accepting or declining this proposal after having taken cognizance of its contents, and the Commission adjourned pending the receipt of a reply from the Hague.

Annex MM 46

THIRD MEETING OF THE JOINT BRITISH-DUTCH NEGOTIATING COMMISSION, JULY 27, 1889

CONFIDENTIAL.

Proceedings of the Joint Commission appointed by the British and Netherland Government for considering the Question of the Boundary between the Netherland Indian Possessions on the Island of Borneo and the Territory belonging to the British North Borneo Company.

Third Meeting, held at the Foreign Office, July 27, 1889.

Present:

For Great Britain—
Sir Philip W. Currie, K.C.B.
Sir Edward Hertslet, C.B.

For the Netherlands—
Count de Bylandt.
M. A. H. Gysberts.

The following gentlemen also attended for the purpose of furnishing information to the Dutch Delegates, viz.:—

M. A. B. Elias.
Captain O. Moreau.

ON the reassembling of the Commission, *Count Bylandt* stated that his Government were quite ready to consider any proposal for a compromise of the question in dispute, while, of course, reserving to themselves the right to reject such proposal, or to modify it by means of a counter-proposal.

Sir P. Currie then proposed, on behalf of the British Delegates—

1. That the boundary-line on the coast should start from the point called Broers Hoek, in about 4° 10′ north latitude, and should pass between the Islands of Sebattik and East Nanoekhan.

2. That the navigation of all rivers in the territory in dispute, lying between 5° 20′ and 4° 20′, should be declared free; and that vessels of either country navigating them should, with their crews and cargoes, receive equal treatment in all respects, and that no transit duties should be imposed.

He further inquired whether it would not be of advantage that the above provisions should be extended to all rivers which, taking their rise in the territory of one State, might flow through, or have their exit in, the territory of the other.

Count Bylandt was ready to submit this proposal to his Government, but he was of opinion that such an agreement would be a one-sided concession, as most of the rivers had their rise in the north; and he thought that equal treatment of the flags of the two nations was as much as could fairly be claimed by the Company.

Sir P. Currie agreed that the proposal should not extend beyond the disputed territory.

Count Bylandt expressed the opinion that the general question of the boundary inland ought to be taken into consideration at the present sitting, and that, provided the general principles were now agreed upon, all details might be settled on the spot by two Delegates appointed on each side for that purpose.

M. Gysberts suggested, with respect to the boundary inland, that regard should not only be had to geographical principles, but that the opinion of the natives, who had well-defined boundary points, should also be taken into consideration.

Sir P. Currie pointed out that it was provided in the Order of Proceedings agreed upon at the first sitting, and recorded in the first Protocol, that, in the event of a satisfactory understanding being arrived at with regard to the disputed boundary between the Netherland Indian Government and the British North Borneo Company, on the north-east coast, in the neighbourhood of the Sibuco River, the British and Netherland Governments will proceed without delay to define, short of making an actual survey, and marking the boundary on the spot, the inland boundary-lines which separate the Netherland possessions in Borneo from the territories belonging to the States of Sarawak, Brunei, and the British North Borneo Company respectively.

He suggested that the best course would be that the Netherland Government should make a proposal to this effect after the question of the boundary on the coast had been settled.

Count Bylandt observed that, in forwarding to his Government the proposal of the British Delegates, he should not offer any opinion on its merits. He stated that the matter would doubtless require to be referred to the local authorities, and the assent of the Sultan of Boelongan obtained. He did not anticipate any difficulty as regards that Chief over whom the Netherland authorities had influence, but the Agreement would also require the sanction of the States-General, over whom his Government had no control.

Sir P. Currie remarked that, until the boundary on the coast was settled, the question of the frontier inland must remain in suspense, and he asked how long the reference to the States-General would take.

Count Bylandt replied that the States-General would meet in September, but that it was impossible to say at what date his Government would be in a position to lay the matter before them.

He then stated, that before the Commission separated, he wished to call attention to a statement by Sir P. Currie, recorded in the Minutes of the last meeting, to the effect that the Minister of the Colonies at the Hague had assured the Dutch Chamber, in 1879, that the cessions made to England did not constitute any encroachment on the rights and privileges possessed by Holland, and he pointed out that what the Minister really had said was given in the Blue Book "Netherlands No. 1 (1883)," p. 8, from which he quoted the following extract :—

> Were our private or commercial interests injured thereby it might be affirmed that the Government should take measures to protect the interests of our country, even in districts which are not under the sway of the Netherlands. But there is, as it appears, little reason to apprehend any such danger from the undertaking in question, and it would be difficult to prove that our interests have been infringed by the Concessions which have been granted. This holds good, at any rate, as regards the Brunei Concession. As far as the Sulu Concession is concerned, it is not quite certain whether the Contracting Parties were well acquainted with the precise frontier-line of the Netherland territory on the east coast of Borneo."

He explained that the reason why the words above quoted were used by the Colonial Minister was, that he knew that a Concession had been granted by the Sultan of Sulu to the Company; while, at the same time, he was ignorant of the precise terms of it, and had no reason to expect that the rights of the Netherlands would be infringed.

The Commission thereupon separated.

Annex MM 47

EXTRACT FROM LETTER FROM COUNT DE BYLANDT TO MR. HARTSEN, MINISTER OF FOREIGN AFFAIRS OF NETHERLANDS, JULY 28, 1889

Extract from Count de Bylandt to Mr. Hartsen, Minister of Foreign Affairs, London, 28 July 1889.
Text in General State Archives of the Netherlands, ARA, The Hague, ARA, Min. of For. Affairs, 2.05.03, inv. no. 134, no. 1:

The idea informally or personally put forward by Admiral Mayne regarding Batau Tinagat, namely to allow us an area by way of an enclave where the Dutch flag as already hoisted could continue to fly, appears to me totally unacceptable, since an enclave of an uninhabited and useless piece of ground can in future perhaps bring a hornets' nest of all sorts of difficulties and conflicts, to which the Netherlands' flag, in my view, should not be exposed without unavoidable necessity.'

Original text in Dutch :

'Het officieus of persoonlijk denbeeld van Admiraal Mayne betreffende Batoe Tinagat, om ons een stuk als enclave toe te staan waar de eenmaal geheeschen Nederlandse vlag zou kunnen blijven wapperen, komt mij geheel onaannemelijk voor, want eene enclave van een onbevolkt en waardeloos stukje grond kan misschien in de toekomst een wespennest worden van allerlei moeilijkheden en conflicten, waaraan de Nederlandsche vlag, mijns inziens, niet blootgesteld moet worden zonder onvermijdelijke noodzakelijkheid.'

Annex MM 48

LETTER FROM BRITISH NORTH BORNEO COMPANY
TO FOREIGN OFFICE,
JULY 22, 1890

No. 63.

British North Borneo Company to Foreign Office.—(Received July 24.)

Sir,

15, *Leadenhall Street, London, July 22,* 1890.

I HAVE the honour to forward to you herewith the views of the Court of Directors of the British North Borneo Company upon the Memorandum of the Netherland Minister with reference to the boundary between the Netherland territory and that under British protection in the Island of Borneo.

The remarks of the Directors are, of course, confined to that part of Borneo under their rule.

They trust that Her Majesty's Government will agree in the proposals they submit, and will urge them upon that of the Netherlands.

I have, &c.

(Signed) BENJ. T. KINDERSLEY, *Secretary.*

Inclosure 1 in No. 68.

Memorandum on the Southern Boundary of the Territory of the British North Borneo Company.

THE Court of Directors of the British North Borneo Company recognize the friendly spirit in which His Netherland Majesty's Government is prepared to co-operate in the solution of the boundary question by a compromise, accepting as the point of departure of the boundary-line on the east coast that point at Broershoek where the parallel of 4° 10′ north latitude meets the sea; and they are prepared to waive their claim to that portion of the territory granted to them by the Sultan of Sulu lying to the south of this line, provided that the other portions on the proposed arrangement be satisfactorily settled.

As to this, the Court of Directors have to remark, on paragraph 1 of the Memorandum forwarded by the Netherland Minister, that they feel most strongly the impracticability of the principle adopted by the Netherland Government, as being such as, if adopted, would inevitably lead to great trouble and confusion hereafter upon the settlement of the country.

As to the unofficial Map handed in by the Netherland Minister, the Court consider it entirely ideal, as no one knows the real direction of the rivers marked, and such information as they have leads them to an entirely different conclusion from that of the Netherland cartographer. The positions of the mountain ranges are equally unknown to all parties, no one having ever attempted to fix any of them, either geodetically or astronomically. The information of the Court leads them to believe that, while it may be found that some rivers debouching south of the parallel of 4° 10′ rise a long way to the north of that line, it is equally the case that rivers debouching to the north of the line, on the west coast, in the Company's territory, rise in territory which, so far as this Company is concerned, indisputably belongs to the Netherlands, and far to the south of 4° 10′ north latitude.

It is evident, therefore, that such a boundary as is proposed by the said Memorandum could only be decided years hence, when the interior of the country is thoroughly known and has been properly surveyed, and when settled would then be of a most impracticable character, probably running now a hundred miles or so north of the line into the Company's territory, and now a hundred miles south into that of the Netherlands; and, for aught that either party knows to the contrary, this might occur more than once.

The Court of Directors, therefore, beg to submit, and trust that Her Majesty's Government will urge upon that of the Netherlands, the advisability of adopting the parallel of 4° 10′ north latitude as the boundary-line throughout their territory from east to west, this being the only really practicable method of definition in an unexplored country.

In urging this they feel that it is almost unnecessary to point out that it is the system adopted in all modern demarcations wherever possible, notably, under almost exactly similar conditions to those under present consideration, in New Guinea between Her Majesty's Government and that of the German Empire.

The simplicity of such a definition is obvious. When once the point at Broershoek of 4° 10′ north latitude has been astronomically fixed—a most simple operation—nothing more need be done in the interior until the development of the country renders it advisable to decide the exact position of the parallel at any point; and when such development has taken place, nothing is easier than to fix the exact spot. At the same time, also, when the country is cleared and its features known, such slight modifications of the exact line as might be mutually agreed upon could easily be made upon a "give and take" basis. No expense would be entailed upon either Government beyond the fixing of the point referred to at Broershoek by the naval officers of the two countries.

With reference to paragraph 2, the Court of Directors trust that the Netherland Government will not insist upon including in their territory the Island of Sebattick, half of which lies to the north of the 4° 10′ parallel, and the north side of which forms one shore of St. Lucia Bay, the southern part of the Company's territory under the proposed arrangement.

As the possession of such a small amount of territory can be of no importance to a great Government like that of the Netherlands, the Court hope Her Majesty's Government will suggest that the boundary-line east from Broershoek should be continued to the centre of the channel between it and Sebattick Island, and thence in a south-easterly direction through the centre of the channel separating Sebattick Island from East

Noenoekan Island, leaving one of these to each party. This seems to the Court a fair arrangement, as they are of opinion that the Island of Sebattick—forming as it does one side of the channels into which all the rivers between Broershoek and Batu Tinagat flow—should be under their jurisdiction; but should it unfortunately not meet with the consent of the Netherland Government, they would be prepared to accept a continuation of the parallel of 4° 10′ north latitude across the island to the east corner, which would give to each party all the portion lying opposite its own territory.

With reference to paragraph 3, the Court of Directors do not object to the free navigation of those rivers, the mouths of which are situated between Batu Tinagat and the Sibuco River, except for the transport of war material. Under this head, the Court look to Her Majesty's Government to insert in any Agreement that may be made such stipulations as to mutual relations as are usual in such cases, and as will afford the Company thorough protection.

With reference to paragraph 4, the Court of Directors are quite willing to meet the expressed desire of the inhabitants of Boelongan that they should be allowed to collect jungle produce for fifteen years, free of all tax or duty, in that part situated between Broershoek and Batu Tinagat.

(Signed) BENJ. T. KINDERSLEY,
Secretary of the British North Borneo Company.

15, *Leadenhall Street, July* 22, 1890.

Inclosure 2 in No. 63.

Map.

No. 64.

Colonial Office to Foreign Office.—(Received July 28.)

Sir, *Downing Street, July* 26, 1890.

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, with reference to the letter from this Department of the 21st January last, and to your letters of the 28th January and 28th May, a despatch from the Officer administering the Government of the Straits Settlements, with two inclosures, which relate to the export of arms to Netherland India and to affairs in Acheen.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 64.

Acting Governor Sir J. Dickson to Lord Knutsford.

My Lord, *Government House, Singapore, May* 28, 1890.

REFERRING to Sir Cecil Smith's despatch of the 3rd December, 1889, I have the honour to transmit to your Lordship copies of a Proclamation I have issued at the request of the Governor-General of Netherland India, extending the prohibition of the exportation of arms and ammunition from the Colony to Netherland India for a further period of six months from the 1st proximo.

2. I also annex copy of my letter to the Governor-General calling his attention to the serious injury to the trade of the Colony resulting from the course adopted by the authorities in Java in dealing with their difficulties in Acheen.

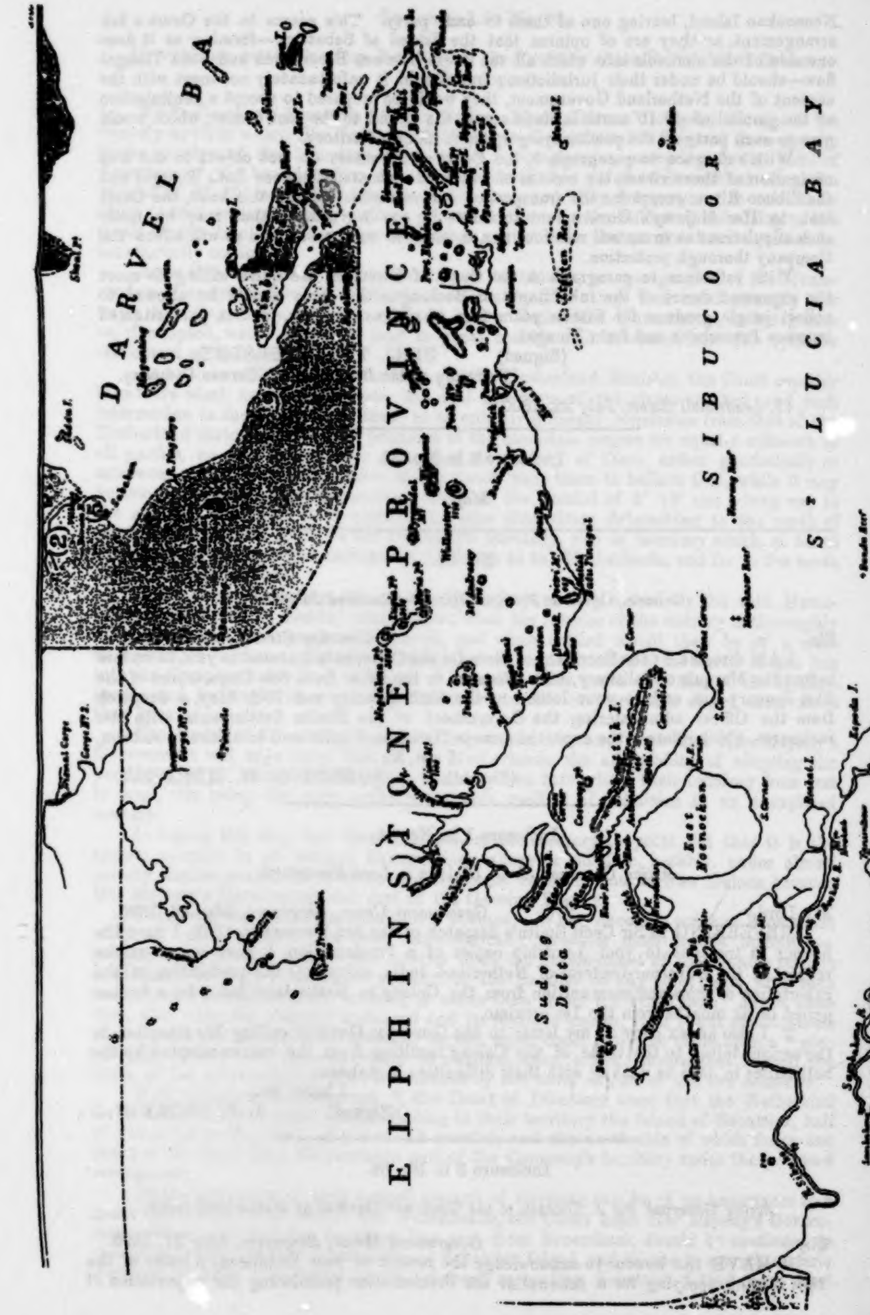
I have, &c.
(Signed) J. F. DICKSON.

Inclosure 2 in No. 64.

Acting Governor Sir J. Dickson to the Governor-General of Netherland India.

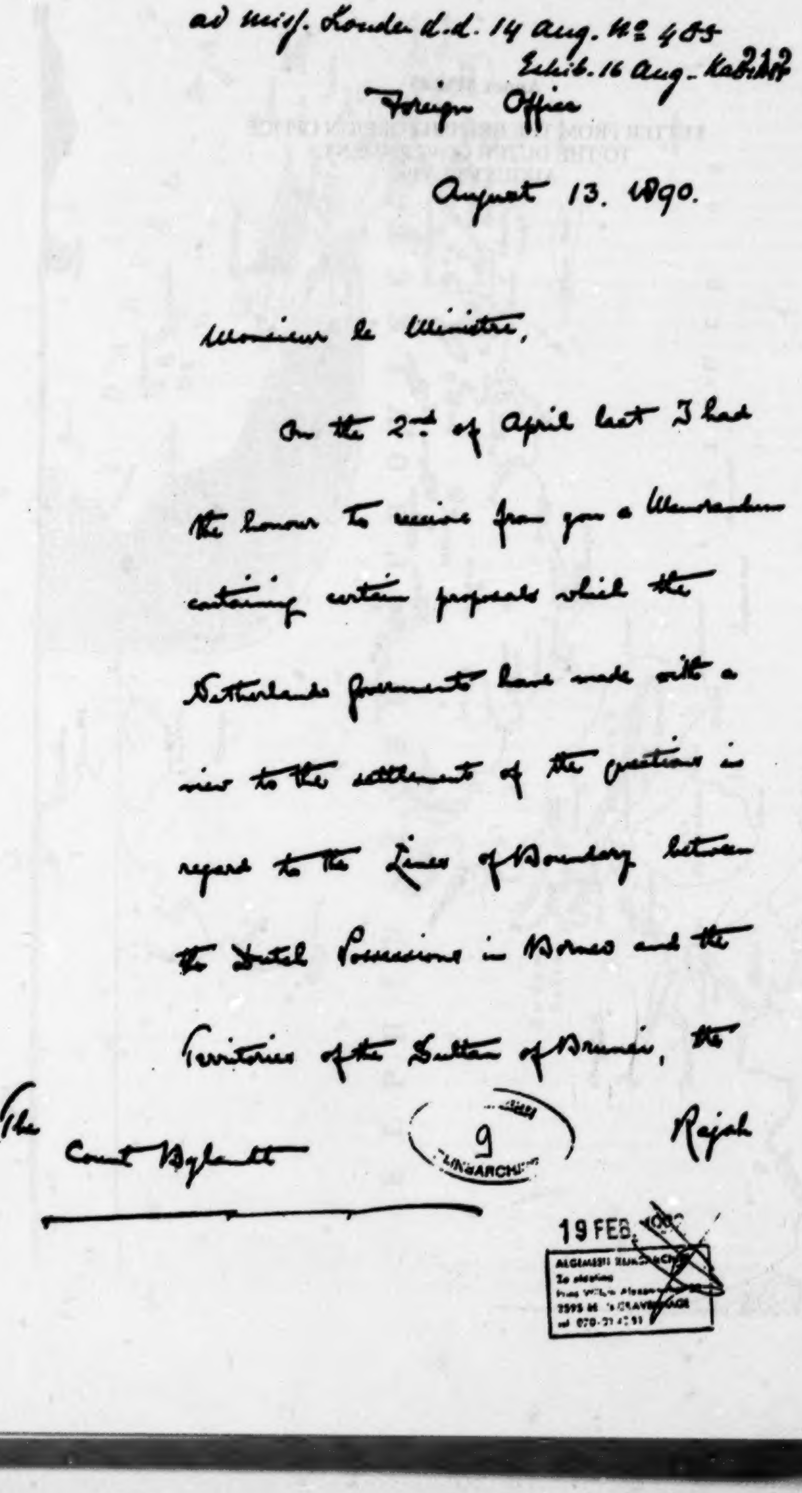
Sir, *Government House, Singapore, May* 27, 1890.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 10th instant, applying for a renewal of the Proclamation prohibiting the exportation of


DARVEL BAY
ELPHINSTONE PROVINCE
SIBUCO OR
ST LUCIA BAY
Sipadan
East Noenokan
Sudong Delta
(2)
(5)

Annex MM 49

LETTER FROM THE BRITISH FOREIGN OFFICE TO THE DUTCH GOVERNMENT, AUGUST 13, 1890



ad Min/. Londen d.d. 14 Aug. No 485
Exhib. 16 Aug - Kab. 212

Foreign Office

August 13. 1890.

Monsieur le Ministre,

On the 2nd of April last I had the honour to receive from you a Memorandum containing certain proposals which the Netherlands Government have made with a view to the settlement of the questions in regard to the Lines of Boundary between the Dutch Possessions in Borneo and the Territories of the Sultan of Brunei, the Rajah

The Count Bylandt

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19 FEB.
ALGEMEEN RIJKSARCHIEF
2e afdeling
Prins Willem Alexander
2595 BE 's-GRAVENHAGE
tel 070-314 [illegible]

Rajah of Sarawak, and the British North Borneo Company, respectively.

The Netherlands Government propose, in effect:-

1. That the principle of a "compromise" agreed upon between the Delegates at the recent Conference as to the Boundary between the British Possessions and the British North Borneo Company being accepted by the Netherlands Government, and Broershoek in parallel 4° 10' being fixed as the starting point of the Boundary on the Eastern Coast, Her Majesty's Government should undertake

to

ALGEMEEN RIJKSARCHIEF
2e afdeling
Prins Willem Alexanderhof 20
2595 BE 's-GRAVENHAGE
tel. 070-81 [illegible]

to agree, at the same time, to the delimitation of the boundary lines which separate the Dutch Possessions in Borneo from the States of Brunei and Sarawak, respectively, as far as Tandjong-Datoe on the Western Coast".

So far, however, as the Territory of the British North Borneo Company is concerned, it is proposed that the line of Watershed of the Rivers Simengaris and Soedang, as marked on a tracing which accompanied the Memorandum in question, should divide the Netherlands Possessions from those of the Company.-

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ALGEMEEN
2e afdeling
Prins Willem Al
2595 BE 's-GRA
tel. 070-81

Company, - leaving the exact Boundary Line to be traced hereafter on the spot by a Mixed Commission; -

2. That the Island of Sibittik should remain to the Netherlands; -

3. That the navigation of all Rivers flowing into the Sea between Batoe: Tinagat and the River Siboekoe should be free, except for transport of War Material; -

and 4. That, in the event of Broershoek being fixed as the point of departure of the Boundary on the Coast, the population of Boelonga should be allowed to collect jungle produce for fifteen years, free from

tax

tax or duty.

These proposals having been submitted to the Court of Directors of the British North Borneo Company for their observations, I have the honour to inform you that the Company have now made the following suggestions and counter=proposals, - which are concurred in by Her Majesty's Government:-

1. They are prepared to accept Broershoek, the point on the Coast where the parallel of 4° 10' North Latitude meets the Sea, and to give up their claim to any territory on the Coast south of this point, provided that

ALGEMEEN RIJKSARCHIEF
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19 FEB 1996
ALGEMEEN RIJKSARCHIEF
2e afdeling
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2595 BE 's-GRAVENHAGE
tel. 070-3814381

that the Netherland Government agree to surrender their claim to any territory to the north of that parallel, - including Batoe Tinagat, - and any places which they may have occupied on the Tawao River, and that the other portions of the proposed arrangement are satisfactorily settled.

They object to accept the line of Watershed of the Rivers Simengaris and Soedang as their Boundary for the following reasons:-

First, because the mountain ranges are utterly unknown, - no one having ever attempted to fix any of them, either geodetically or or astronomically; and, Secondly, because the tracing annexed to your Memorandum is made from an unofficial Map, and not from any actual survey.

They therefore propose to follow the principle adopted in tracing similar Boundaries in unknown and unexplored Countries, — in New Guinea for instance, — namely, by accepting a parallel of latitude; and they suggest that the boundary line should run along the parallel of 4° 10′ North Latitude until it reached the mountain range which separates the Netherlands Possessions from those of Brunei.

Thio,

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tel. 070-81 45 81

This, the Company consider, would be equally fair to both Parties, inasmuch as it is absolutely a matter of conjecture where the Rivers rise which empty themselves into the Sea to the north or south of Broershoek at 4° 10' North Latitude.

Should the Netherlands Government accept this line of boundary, Her Majesty's Government would be prepared to recognize the dividing lines already marked on the Dutch Official Map* as those which separate the Dutch Possessions from the States of Brunei and Sarawak, respectively, leaving any differences which might possibly hereafter arise with regard

*(See Sheet 10 in "Atlas der Nederlandsche Bezittingen in Oost Indië", by J. W. Stemfoort and J. J. ten Siethoff.)

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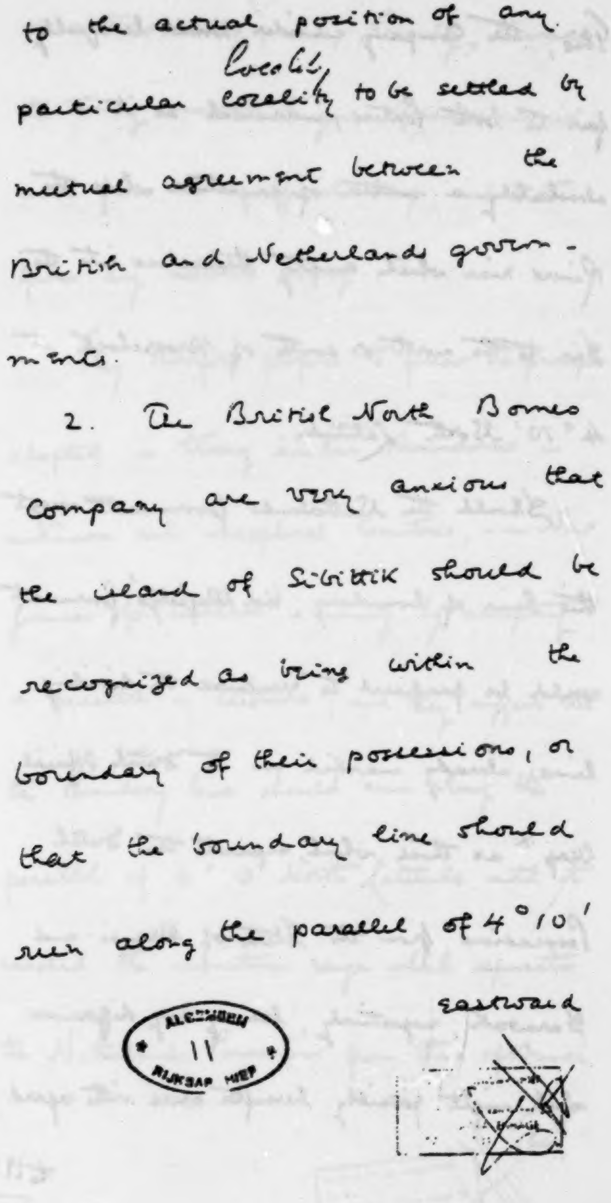

to the actual position of any particular locality to be settled by mutual agreement between the British and Netherlands governments.

2. The British North Borneo Company are very anxious that the island of Sibittik should be recognized as being within the boundary of their possessions, or that the boundary line should run along the parallel of 4°10' eastward

ALGEMEEN RIJKSARCHIEF 11

Eastward, as well as westward, from Browershock, so as to divide the island equally between themselves and the Netherlands Government. But Her Majesty's Government is anxious to arrive at a speedy settlement of this long-vexed question, and they would therefore not press this point on behalf of the Company, provided the Netherlands government would be prepared

19 FEB. 1992

prepared to lease the northen part of the island to the Company in perpetuity for a nominal rental and would undertake to leave the Company in quiet and peaceable possession of it.

3. They are willing to agree that the navigation of all the rivers between Batoe - Tinagat and the Siboekoe river should be free, except for transport of war material

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ALGEMEEN RIJKSARCHIEF [illegible]

material, on the understanding that the Netherlands government give a similar undertaking; and

4. They are prepared to agree that the population of Boelongan should be allowed to collect jungle produce for fifteen years, free from any tax or duty.

On hearing from you that the counter-proposals herein

herein made are accepted

by the Netherlands

Government, I shall have

the honour to submit for

your approval a draft

agreement, in order that

the result of the negoti-

ations which have passed

on

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RIJKSARCHIEF

19 FEB. 1992
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tel. 070-814381

on the subject between our

respective governments may

be formally recorded.

I have the honour to be

with the highest consideration,

Monsieur le Ministre,

Your most obedient

humble servant

(For the Marquis of
Salisbury)

19 FEB. 1892

Annex MM 50

LETTER FROM COUNT DE BYLANDT TO LORD SALISBURY, FEBRUARY 2, 1891

Translation of a Despatch from Count de Bylandt to Lord Salisbury.

2nd Feb 1891

My Lord,

I have not failed to transmit to my government the despatch which your Lordship did me the honour to address to me under date of the 13th August last in response to propositions which I had been directed to make for the delineation of the Dutch possessions and the Territories under British protection in the island of Borneo.

It is clear from a careful consideration of that despatch that there remain but two points on which the Governments interested are not yet in accord; the boundary which should separate the Dutch possessions and the territories of the British North Borneo Company in the interior of the island of Borneo, and the question of the island of Sebatik. I shall now have the honour, my Lord, of submitting for your Lordship favourable consideration the counter proposals which my government thinks it ought to make.

1. With regard to the British proposition that the degree 4.10 north latitude should be adopted as the frontier from the coast as far as the chain of mountains which separates the Dutch territory from that of Brunei.
2. With regard to the propositions of the British North Borneo Company concerning the island of Sebatik.

With reference to the first of these questions the two governments are agreed that the commencement of the boundary on the East Coast of Borneo should be the points where the degree of latitude 4.10 cuts the coast in the vicinity of Broershoek, From this points, however, the Dutch Government cannot approve the parallel 4.10. as the boundary towards the West, which, scarcely has it left the coast, repeatedly crosses the river Simergaris. While agreeable not to insist upon the exclusive adoption of the watersheds as a boundary, it is forced to seek for a means which will avoid as far as possible that the boundary line does not cross the same river once or even several times, and taking into consideration that the

British North Borneo Company seem to hold out for a more defined boundary at the outset, my government propose to adopt a straight line starting rom 4.10 on the coast and following a West-North-West direction between the rivers Simergaris and Soedang as far as the point where the meridian of longitude 117. crosses 4.10 north latitude. The boundary will then follow this last parallel as far as the central mountains.

At the same time my government desires to make the following observation. If the naval Officers of the two countries, who will shortly meet on the spot, succeed in establishing the geographical position and make a chart of the course if the Simergaris and Soedang, and if at the end of their investigations the two governments interested agree in finding that after all the line of watershed offers a boundary preferable to that described above, the Dutch Government will give the preference to the line of watershed. While at the same time it will be seen that the principal objection of the British North Borneo Company to this natural boundary, viz: that the rivers in question might rise too far north would be without any foundation, my Government hopes that your Lordship will not maintain any longer, if such should be the case, the objection in that respect, even if it was agreed previously on the basis indicated in the present Dutch proposition.

As to the Island of Sebatik the Government of the Queen Regent is ready to continue negotiations on the basis of a compromise to arrive at a solution to meet the wishes of the British North Borneo Company, to cede to them without restrictions the part of that island situated north of 4.10 north latitude provided always that the British Government agrees to the present Dutch proposal for the boundary to the west of Broershoek.

In the despatch referred to from your Lordship of the 13th Aug. last, it appear besides that once an agreement is arrived at to with regard to the limits of territory of the British North Borneo Company, the British Government would be willing to recognise as the boundary between the

Dutch possessions and those of Brunei and Sarawak, the line indicated on the map of Stanfort and Suthoff, leaving to the two governments the task of fixing the exact points of that frontier and to settle between themselves differences of a secondary nature that might arise.

In anticipation, however, of the project of Convention which may eventually be drawn up after the consent of the Sultan of Brunei and the Rajah of Sarawak shall have been obtained, my Government has instructed me to observe that it appears to it of little use that this line should be mentioned as the one and only description of the frontier in the document referred to. The Colonial Minister at the Hague is of opinion that it would be better in the interest of both parties to have it laid down in the project of Convention that the frontier should be formed by the watershed of the river, whose mouths are situated in the territories of the respective countries - The watersheds should, besides, nearly coincide with the line traced on the map in question and which follows along the ridge of the mountains, so that your Lordship can satisfy yourself.

In conclusion if your Lordship consider it advisable it could be added that which waiting for the delimitation on the spot those interested should abide by the demarcation on the Dutch map above referred to. Many future difficulties would it seems to me, be avoided in this way.

In awaiting the reply with which from Lordship will honour me, I flatter myself with the hope that these proposals will be found acceptable, and I will not fail to transmit to my Government without delay any project of convention drawn up in this sense which your Lordship may cause to reach me.

I have the honour

(S) C. de Bylandt

No. 7.

Count Bylandt to the Marquis of Salisbury.—(Received February 2.)

M. le Marquis, *Londres, le 2 Février*, 1891.

JE n'ai pas manqué de transmettre à mon Gouvernement la note que votre Seigneurie m'a fait l'honneur de m'adresser en date du 13 Août dernier, en réponse aux propositions que j'avais été chargé de faire pour la délimitation des possessions Néerlandaises et des territoires qui se trouvent sous le Protectorat de la Grande-Bretagne dans l'Ile de Bornéo.

Il résulte d'un examen attentif de cette note qu'il ne reste au fond que deux points sur lesquels les Gouvernements intéressés ne soient pas encore d'accord, savoir, la frontière qui doit séparer les possessions Néerlandaises des territoires de la "British North Borneo Company" dans l'intérieur de l'Ile de Bornéo, et puis la question de l'Ile de Sebittik.

J'aurai l'honneur maintenant, M. le Marquis, de soumettre au bienveillant examen de votre Seigneurie les contre-propositions que mon Gouvernement croit devoir faire:—

1. A l'égard de la proposition Britannique que le degré 4° 10′ de latitude nord soit adopté comme frontière depuis la côte jusqu'à la chaîne de montagnes qui sépare le territoire Néerlandais de celui de Broenai, et—

2. A l'égard des propositions de la "British North Borneo Company" concernant l'Ile de Sebittik.

Par rapport à la première de ces questions les deux Gouvernements sont d'accord que le point de départ de la frontière, sur la côte orientale de Bornéo, doit être le point où le degré 4° 10′ de latitude nord traverse le littoral, aux environs de Broershoek.

A partir de ce point néanmoins le Gouvernement Néerlandais ne saurait ad[illegible]ttre comme frontière vers l'ouest le parallèle 4° 10′ qui, à peine quittant la côte, traverse plusieurs reprises le cours de la Rivière Simengaris. Bien qu'il consente à ne plus insister sur l'adoption exclusive de la ligne de partage des eaux comme frontière, il s'est efforcé de trouver un moyen qui éviterait autant que possible que la frontière ne coupât une, ou même plusieurs fois le même cours d'eau, et prenant en considération que la "British North Borneo Company" semble tenir à une délimitation mieux définie d'avance, mon Gouvernement propose d'adopter une ligne droite partant de 4° 10′ sur la côte, et suivant une direction ouest-nord-ouest, entre les Rivières Simengaris et Soedang, jusqu'au point où le méridien 117° longitude est de Greenwich, traverse le parallèle 4° 20′ latitude nord. De là enfin la frontière longerait ce dernier parallèle jusqu'aux montagnes centrales.

Toutefois mon Gouvernement désire faire l'observation suivante. Si les officiers de marine des deux pays qui se rendront probablement sous peu ensemble sur les lieux, réussissent à établir la position géographique et à lever la carte du cours du Simengaris et du Soedang, et si à la suite de leurs recherches les deux Gouvernements intéressés s'accordaient à trouver qu'après tout la ligne de partage des eaux offrirait une délimitation préférable à celle décrite ci-dessus, le Gouvernement Néerlandais donnerait la préférence à la ligne de partage des eaux. Comme en même temps il serait démontré que la principale objection de la "British North Borneo Company" contre cette frontière naturelle, savoir, que les rivières en question remonteraient trop loin au nord, n'était qu'une appréhension non fondée, mon Gouvernement espère que votre Seigneurie ne maintiendrait plus, le cas échéant, ses objections à cet égard, même si on était tombé d'accord préalablement sur les bases indiquées dans la présente proposition Néerlandaise.

Quant à l'Ile de Sebittik le Gouvernement de la Reine Régente est prêt à continuer les négociations sur la base d'un compromis, et il consent, pour aller au devant d'une solution, à se rendre au désir de la "British North Borneo Company" en lui cédant sans restriction la partie de cette île située au nord du degré 4° 10′ latitude nord, à condition toutefois que le Gouvernement Britannique se rallie à la présente proposition Néerlandaise pour la délimitation à l'ouest de Broershoek.

De la note précitée de votre Seigneurie du 13 Août dernier il appert en outre qu'une fois qu'une entente serait obtenue à l'égard des limites des territoires de la "British North Borneo Company," le Gouvernement Britannique serait prêt à reconnaître comme limite entre les possessions Néerlandaises et celles de Broenai et de Sarawak, la ligne indiquée sur la Carte de MM. Stemfort et Siethoff, en laissant aux deux Gouvernements le soin de fixer avec le temps de commun accord les points exacts de cette frontière, et de s'entendre entre eux par rapport aux différends de nature secondaire qui pourraient encore surgir.

En prévision cependant du projet de Convention qui pourra éventuellement être dressé, après que le consentement du Sultan de Broenai et du Rajah de Sarawak aura été obtenu, mon Gouvernement m'a chargé de faire observer qu'il lui paraît peu pratique que cette ligne soit mentionnée comme seule et unique description de la frontière dans le document précité. Le Ministre des Colonies à La Haye est d'avis qu'il vaudrait mieux dans l'in[illegible]rêt des deux partis faire ressortir dans le projet de Convention que la frontière serait [illegible] par la ligne de partage des eaux des rivières dont les embouchures sont situées [illegible] les territoires des pays respectifs. Le partage des eaux doit du reste coincider à peu près avec la ligne tracée sur la Carte en question, et qui suit partout la crête des montagnes, ainsi que votre Seigneurie peut s'en assurer. Enfin si votre Seigneurie le jugerait utile on pourrait ajouter, qu'en attendant la délimitation sur les lieux les intéressés s'en tiendraient à la démarcation de la susdite Carte Néerlandaise. Bien des difficultés futures pourraient, il me semble, être évitées de cette façon.

En attendant la réponse dont votre Seigneurie voudra bien m'honorer, je me flatte de l'espoir qu'elle trouvera ces propositions acceptables, et je ne manquerai pas de transmettre sans délai à mon Gouvernement tout projet de Convention rédigé dans ce sens, que votre Seigneurie voudrait bien me faire parvenir.

Veuillez, &c.
(Signed) C. DE BYLANDT.

Annex MM 51

EXPLANATORY MEMORANDUM NO. 3 OF THE DUTCH GOVERNMENT SUBMITTED TO THE DUTCH PARLIAMENT ACCOMPANYING THE 1891 CONVENTION, ON JULY 25, 1891

ANNEX

Official Parliamentary Reports, The Netherlands

SESSION 1890 – 1891 187

Ratification of the agreement made in London between the Netherlands and Great Britain and Ireland for the fixing of the boundaries between the possessions of the Netherlands on the island of Borneo and the states on that island which are under British protectorate

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EXPLANATORY MEMORANDUM

NO. 3

When for the first time the question arose of British influence over the Northern part of Borneo not under our authority, the Dutch opinion was that it would be against the spirit and object of the London Treaty of 17 March 1824 that on an island in the Indian archipelago, where the Dutch authority was established, there should also be a British authority. Ever since 1845, when Mr. Brook settled in Sarawak, this opinion of the treaty has continuously been a matter of discussion between the Dutch and the British Governments, but there has never been an agreement on this point and after what has happened to both Sarawak and Broenei and lately to the British North – Borneo Company, it can be safely assumed that the discussions with England on this matter have now come to an end. When the British Government in 1888 had accepted the protectorate over the states in North Borneo, namely Sarawak, Broenei and British North Borneo, and informed the Dutch Government about this at the beginning of 1889, the Government took the view that it would not object to this because no Dutch rights have been affected and no provisions of the treaty have been violated; and to raise again the question of the interpretation of the 1824 treaty would surely not yield any result, as has been proved previously.

However, in the interest of the Dutch, the opportunity of the establishment of the British protectorate should be made use of as soon as possible to establish an arrangement for the boundaries in Borneo between our territory and that of the British protectorate, in order to avoid in the future disputes about the boundaries which, as can be seen in the recent experiences, can lead to great difficulties.

Should an arrangement be made about the boundaries on Borneo, then that would also put an end to the pending dispute which has been going on for years about the boundary on the Eastern Coast of Borneo between our territory and that of the British North Borneo Company.

As to this dispute, we should remember that the Sultans of Solok and Broenei in December 1877 and January 1878 ceded to messieurs Von Overbeck and Dent, against a fixed annual tribute money, a quite extended area, consisting of the Northern part of Borneo, the Southern boundary of which at Eastern Coast of Borneo was indicated by the Siboekoo river. These gentlemen transferred their rights to the British North Borneo Company, to which by the decree of 1 November 1881 a charter was granted by the British Government. This in a sense has put the Company under the control of the Government and provided that in case of disputes with foreign powers, the Company should be subject to the decisions of the British Government.

As soon as the [Netherlands] Indies Government received information in February 1878 that the concessions granted to messieurs Von Overbeck and Dent extended to the Siboekoo river, it started to investigate whether –as immediately assumed– the Northern boundary or our territory at the Eastern coast of Borneo has been violated, which boundary according to the contract made with the Sultan of Boeloengan at the Coast is formed by the Batoe Tinagat river and further inland by the Tawao river.

When the subsequent investigation confirmed the correctness of this assumption, the Governor-General instructed the Dutch flag to be flown at Batoe Tinagat in a ceremonial way and, for its protection, the stationing of an armed vessel in St. Lucia Bay, while at the mouth of the Tawao river a coal depot was established with a frontier guard. One of the officials of the British North Borneo Company protested against these actions of the [Netherlands] Indies Government by writing on 4th July 1880 to the Commander of the Dutch warship *Atjeh*, which was at that moment stationed in the Sandahanan bay.

Even before the Charter mentioned above was granted to the Company, the Dutch Government has informed the British Government that a part of the Dutch territory was included in the cessions of the Sultans of Solok and Broenei. Thereupon, after the granting of the Charter, the British Government had replied that in order to be able to settle the border dispute, the following stipulation was included in the Charter:

"Art. 16. If at any time Our Secretary of State thinks fit to object to the exercise by the Company of any authority or power within any part of the territories comprised in the several grants aforesaid, or otherwise acquired under this our Charter, on the ground of there being an adverse claim to that part, the Company shall defer to that objection."

Hence the border dispute had become automatically a matter for negotiation between the Dutch and British Governments. Several diplomatic notes were exchanged which did not lead to any results. There was no reply to our latest note of 13th March 1884 to the British Government.

This was the situation when the protectorate over the northern part of Borneo was accepted by the British Government and the Dutch Government was informed about it.

Immediately after the receipt of this information, the Dutch Government submitted various suggestions to the British Government for a proper border arrangement between the Dutch territory in Borneo and that of the British protectorate.

When the Dutch Government after the discussions with the British Government realized that further written communications on the border dispute at the Eastern coast of Borneo would not lead to an agreement, a proposal was made to the British Government to have the matter of the border arrangement discussed in a committee of delegates of the two States.

This proposal was accepted and the discussions took place in July 1889 in London. Both parties stuck to their assertions: according to the Dutch, the disputed area between the Tawao and Siboekoe Rivers belonged to the dominion of Boeloengan which, by virtue of the contracts with its Sultans, formed a part of the territory of the Netherlands Indies, and therefore the Sultan of Solok could not cede it to the British North Borneo Company; while according to the British, that area was a part of the territory of Solok and the cession to the above mentioned Company, signed on 22 January 1878, was anterior to the contract between the Sultan of Boeloengan and the Netherlands Indies Government of 2 June 1878, this being the first contract with the Sultan of which the Dutch Government informed the British Government[1].

So the discussions threatened to be of no avail and therefore the British delegates suggested that settle the border dispute at the Eastern coast should be settled by a compromise.

In principle, the suggestion was approved by the Dutch as this seemed to be the only means to end this dispute which had been going on for so long and at the same time to obtain the border arrangement which the Netherlands had desired for the whole width of Borneo from the Eastern to the Western Coast.

Then the British delegates on behalf of their Government submitted the following proposal:

1st, that the borderpoint on the Eastern coast should be located at Broershoek, situated at about 4° 10' North latitude, and that the borderline eastward from this point should run between the islands of Sibittik and East – Nanoekan. (Later it appeared that the understanding was that the borderline in the Western direction would co-incide with the parallel of 4° 10'), and

2nd, that shipping on all rivers in the disputed area located between 3° 20' and 4° 10' North latitude would be declared free and that the vessels of both States, with their crews and cargoes, would in all respects on these rivers be treated equally and that no transit fees would be levied.

Before giving a definitive answer to the British Government, the Governor General of the Netherlands – Indies was consulted about the borderline to be determined and he was instructed to secure the co-operation of the Sultan of Boeloengan. From the reply of the Governor General it appeared that the Sultan was prepared to act unconditionally according to the arrangements to be made by the Dutch and English Governments, but would rather see that to the population of Boeloengan for the term of 15 years be given the right to collect forest products free of tax in the area between Broershoek and Batoe Tinagat.

A local inspection carried out by the deputy assistant resident of Koetei revealed that the Bajaus who live on the islands located at the North – Eastern coast of Borneo, which belong to the Sultanate of Solok, still continuously collect forest products in the disputed area and show no concern whatsoever for the Sultan van Boeloengan. Because of this, and also because of the absence of any document establishing the boundary between the Sultanates of Boeloengan and Solok, it was considered very difficult indeed to determine the extent of the area of Boeloengan.

The negotiations, which have been carried out after the receipt of the reply from the Indies to the British Government, have led to the agreement which is now being submitted to the Legislative Power for approval.

Principally, and particularly concerning Serawak, Broenei and the part of British North Borneo which is most remote from the sea, the watershed is accepted as the boundary according to the wishes of the Dutch Government,

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[1] The first contract with Boeloengan of 12 November 1850 was not announced to the British Government, as according to the opinion of the Government at that time art. 3 of the London Treaty of 1824 did not demand notification of contracts which were meant to confirm rights anterior to that treaty.

As to the boundary through the disputed area of the eastern coast of Borneo, the following is stipulated:

Contrary to the British proposal to have the boundary from the sea to the central mountain range coincide with the parallel of 4° 10' North latitude and the island of Sibittik to belong wholly to British North Borneo, this side proposed to start at 4° 10' at the Broersboek at the Eastern coast and have the borderline run between the Simengaris and Soedang rivers up to the central mountain range. To this the British objected as the Board of Directors of the British North Company considers that the rivers which flow into the sea in the Northern part of St. Lucia Bay, have their sources far in the North and therefore the boundary proposed by us would penetrate deeply into the territory of the Company.

The Dutch Government, in 1883 and previous, had mapped the course of the rivers which flow into the St. Lucia Bay[2]. There is now sufficient certainty that the Simengaris and Soedang rivers are only navigable over short distances, flow to the sea in a south-easterly direction, and have their sources not far from their mouths. But the total unfamiliarity with and inaccessibility of the interior of Borneo render it impossible to submit irrefutable proof of this.

The Government admitted however that it would be desirable, because of the possibly short course of the river, to describe in more detail the borderline as far as the points at which the rivers reach the central mountain range.

It therefore proposed as the boundary a straight line which runs in a north-westerly direction which – if the opinion of the Government about the short course of the river is correct – provides sufficient certainty that the Simengaris river will then be located on Dutch territory.

This proposal was accepted and incorporated in the Treaty. There is even the added provision that, when the Simengaris or any other river which flows into the sea South of the 4° 10' North latitude, upon measurement proves to have exceeded the agreed borderline within a distance of 5 geographical miles, the line will be altered in such a way that such small parts or bends of the rivers would be enclosed in Dutch territory.

As to the island of Sibittik, the British Government, after the refusal of the Dutch to have British North Borneo as the sole possessor, was prepared to acknowledge the whole island to be Dutch territory, provided that the northern part was to be given to the British North Borneo Company on long lease for an indefinite period against the payment of a nominal rent and the Dutch Government would ensure the Company the peaceful use of it. If the proposal were accepted, then the Dutch would be the proprietor in name of the Northern part of the island but would have nothing but trouble and unpleasantness and little benefit.

Therefore, from this side there is a preference to have the island, which is totally uninhabited, divided in two by the parallel of 4° 10' as the boundary between the two parts. As a result, the Dutch and the British North Borneo Company would have that part of the island which consists of the bank of the fairway along which either of them has to reach the coastal area they possess; this is fair and rational.

The result of the negotiations about the boundary through the disputed area on the east coast is, that with the point of 4° 10′ Northern latitude at the coast at Broershoek as starting-point proposed by the British Government, the boundary is much more favourable for the Dutch than the British desired. This can be seen from the map attached to this Memorandum, on which are drawn: 1° the borderline, with Batoe Tinagat as starting –point at the Eastern Coast, as advocated by the Dutch Government; 2° the borderline advocated by both the British Government and the British North Borneo Company; 3° the borderline proposed by the British Government as a compromise; and 4° the borderline as described in the convention.

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[2] Compare the nautical chart of the "Eastern coast of Borneo from Batoe Tinagat to Tarakan" issued by the Hydrographical Bureau in Batavia in 1883, a copy of which is on display for the members at the registry of the House.

If a comparison of these different lines appears to give the impression that the Dutch has given up a part of its territory, we should not forget that before there was a dispute about the boundary, the Dutch Government has never paid much attention to her territory at the Eastern coast of Borneo which was unknown to her and moreover totally uninhabited; that the rights of the Sultan of Boeloengan on the disputed area cannot be called totally indisputable and finally that, instead of a highly uncertain boundary through a stretch of mostly inaccessible land which was unknown, there has now been accepted a quite correctly described borderline which puts an end to all difficulties in the future, not only concerning that part of Borneo which was connected with the border dispute but also concerning the whole island.

Article 6 of the Convention contains a provision for free navigation which, according to the British proposal, would extend to all rivers located between 3° 20′ and 4° 20′ North latitude. In accordance with the wishes of the Dutch Government it is now limited to the rivers which in the disputed coastal area flow into the sea.

Article 7 includes a provision concerning the collection of forest products as requested by the indigenous administration of Boeloengan.

The Minister of Foreign Affairs,
HARTSEN
The Minister of Colonies,
MACKAY

*The original text of this Memorandum is in the Dutch language.

ZITTING 1890 — 1891. — 187.

Bekrachtiging van de op 20 Juni 1891 te Londen tusschen Nederland en Groot-Brittannië en Ierland *gesloten overeenkomst tot vaststelling der grenzen tusschen de Nederlandsche bezittingen op het eiland* Borneo *en de Staten op dat eiland, die onder Britsch protectoraat staan.*

MEMORIE VAN TOELICHTING.

N°. 3.

Toen voor het eerst sprake was van Britschen invloed in het niet aan ons gezag onderworpen noordelijk deel van Borneo, werd van Nederlandsche zijde de meening voorgestaan, dat het in strijd zou zijn met den geest en de strekking van het Londensch tractaat van 17 Maart 1824, wanneer op een eiland van den Indischen Archipel, waar het Nederlandsch gezag gevestigd is, daarnaast het Britsche gezag gevestigd werd. Deze opvatting van het tractaat heeft sedert 1845, toen de heer BROOKE zich in Serawak vestigde, herhaaldelijk een punt van gedachtenwisseling tusschen de Nederlandsche en Britsche Regeeringen uitgemaakt, doch deze heeft zich nimmer daarmede kunnen vereenigen, en na al hetgeen is voorgevallen ten opzichte zoowel van Serawak als van Broenei en laatstelijk van de Britsche Noord-Borneo-Maatschappij, mag veilig worden aangenomen dat het debat met Engeland over dit punt uitgeput is. Toen de Britsche Regeering het protectoraat over de in het Noorden van Borneo gelegen Staten: Serawak, Broenei en Britsch Noord-Borneo in 1888 aanvaardde en daarvan in het begin van 1889 aan de Nederlandsche Regeering mededeeling gedaan had, meende de Regeering zich niet tegen dat protectoraat te moeten verzetten omdat daardoor geen recht van Nederland aangerand en geene tractaatsbepaling geschonden werd, en het opnieuw te berde brengen van de zooeven bedoelde interpretatie van het tractaat van 1824 natuurlijk evenmin als vroeger eenig resultaat zou opleveren.

Daarentegen bracht het belang van Nederland mede, van de vestiging van het Britsche protectoraat partij te trekken om zoo spoedig mogelijk eene grensregeling op Borneo tot stand te brengen tusschen ons gebied en dat van het Britsche protectoraat, ten einde geschillen over de grenzen voor de toekomst te voorkomen, geschillen die, blijkens de in den laatsten tijd opgedane ondervinding, tot groote moeilijkheden aanleiding kunnen geven.

Werd eene grensregeling op Borneo gemaakt, dan zou tevens een einde komen aan het reeds sedert verscheidene jaren hangende geschil omtrent de grens ter Oostkust van Borneo tusschen ons gebied en dat der Britsche Noord-Borneo-Maatschappij.

Wat dit geschil betreft, zij in herinnering gebracht, dat de Sultans van Soeloe en van Broenei in December 1877 en Januari 1878 aan de heeren VAN OVERBEEK en DENT, tegen vaste jaarlijksche cijnsen, afstand gedaan hebben van een zeer uitgestrekt gebied, uitmakende het noordelijk deel van Borneo, als welks zuidelijke grens ter Oostkust van Borneo werd aangeduid de Siboekoe-rivier. De genoemde heeren droegen hunne rechten over aan de Britsche Noord-Borneo-Maatschappij, aan wie door de Britsche Regeering bij besluit van 1 November 1881 een charter werd verleend, waarbij die Maatschappij in zekere opzichten onder gouvernementeele contrôle werd gesteld, en onder meer werd bepaald dat zij zich ten aanzien van geschillen met vreemde Mogendheden aan de beslissing der Britsche Regeering moest onderwerpen.

Zoodra de Indische Regeering in Februari 1878 vernomen had dat de aan de heeren VAN OVERBEEK en DENT verleende concessiën zich uitstrekten tot aan de Siboekoe-rivier, liet zij onderzoeken of — gelijk aanstonds verondersteld werd — daardoor niet de noordelijke grens van ons gebied ter Oostkust van Borneo overschreden werd, welke grens ingevolge het met den Sultan van Boeloengan gesloten contract aan de kust gevormd werd door den Batoe Tinagat en verder landwaarts in door de Tawao-rivier.

Toen het ingestelde onderzoek de juistheid der veronderstelling bevestigd had, liet de Gouverneur-Generaal de Nederlandsche vlag op plechtige wijze op den Batoe Tinagat hijschen en tot hare bewaking eene gewapende boot in de St. Lucia-baai stationneeren, terwijl aan den mond der Tawao-rivier een steenkolen-depot met een grenswacht werd opgericht. Tegen deze handelingen der Indische Regeering werd geprotesteerd door agenten der aandeelhouders van de Britsche Noord-Borneo-Maatschappij bij een schrijven van 4 Juli 1880, dat aan den commandant van het toen in de Sandakanbaai vertoevende Nederlandsche oorlogschip *Atjeh* werd toegezonden.

Reeds vóórdat het bovenvermelde charter aan de Maatschappij verleend werdt, heeft de Nederlandsche Regeering aan de Britsche Regeering doen weten dat in de cessies der Sultans van Soeloe en Broenei een gedeelte van het Nederlandsch gebied begrepen was. Daarop werd, na de verleening van het charter door de Britsche Regeering geantwoord dat, juist met het doel om het grensgeschil te kunnen beslechten, de volgende bepaling in het charter was opgenomen:

«Art 16. If at any time our *Secretary of State* thinks fit to object to the exercise bij the Company of any authority or power within any part of the territories comprised in the several grants aforesaid, or otherwise acquired under this our Charter, on the ground of there being an adverse claim to that part, the Company shall defer to that objection."

Het grensgeschil werd dus daardoor als vanzelf een punt van onderhandeling tusschen de Nederlandsche en Britsche Regeeringen. Er werden verscheidene diplomatieke nota's gewisseld, welke tot geen resultaat leidden. Op eene laatste nota van 13 Maart 1884 werd door de Britsche Regeering niet geantwoord.

In dezen stand bevond zich de zaak, toen het protectoraat over het noordelijk gedeelte van Borneo door de Britsche Regeering aanvaard en daarvan mededeeling aan de Nederlandsche Regeering gedaan werd.

Zoodra zij die mededeeling ontving, heeft zij zich gehaast de noodige voorstellen aan het oordeel der Britsche Regeering te onderwerpen nopens eene behoorlijke grensregeling tusschen het Nederlandsche gebied op Borneo en dat van het Britsch protectoraat.

Toen het der Nederlandsche Regeering na wisseling van gedachten met de Britsche Regeering bleek dat bij verdere schriftelijke behandeling der zaak omtrent het grensgeschil ter Oostkust van Borneo geene overeenstemming te verkrijgen was, deed zij aan de Britsche Regeering het voorstel om de quaestie der grensregeling op Borneo te doen bespreken in eene commissie van gedelegeerden der beide Staten.

Dit voorstel werd aangenomen en de besprekingen hadden in de maand Juli 1889 te Londen plaats.

Van weerszijden werden de beweringen volgehouden, van Nederlandsche zijde, dat het betwiste gebied tusschen de Tawao- en Siboekoe-rivieren behoorde tot het rijk Boeloengan, hetwelk krachtens contracten met zijne Sultans deel maakt van het grondgebied van Nederlandsch-Indië, en dat dus de Sultan van Soeloe dat gebied niet kon afstaan aan de Britsch Noord-Borneo-Maatschappij; en van Britsche zijde, dat het bedoeld gebied deel maakt van het rijk Soeloe en dat de afstand daarvan aan de meergenoemde Maatschappij, dagteekenend van 22 Januari 1878, anterieur was aan het contract tusschen den Sultan van Boeloengan en het Nederlandsch-Indisch Gouvernement van 2 Juni 1878, zijnde dit het eerste contract met dien Sultan dat door de Nederlandsche Regeering aan de Britsche was medegedeeld (*).

De besprekingen dreigden dus tot geen resultaat te leiden, en daarom werd door de Britsche gedelegeerden het denkbeeld geopperd het grensgeschil ter Oostkust door middel van een compromis te beëindigen.

Dit denkbeeld werd in beginsel door de Nederlandsche Regeering goedgekeurd, als het éénige middel om het zoo lang hangende geschil te beëindigen en tevens een [illegible] de door haar gewenschte grensregeling over de geheele breedte van Borneo van de Oost- naar de Westkust te verkrijgen.

(*) Het eerste contract met Boeloengan van 12 November 1850 werd niet aan de Britsche Regeering medegedeeld, omdat volgens het oordeel der toenmalige Regeering art. 3 van het Londensche tractaat van 1824 de mededeeling niet vorderde van de contracten welke strekken tot bevestiging van rechten, anterieur aan dat tractaat.

Daarop deden de Britsche gedelegeerden namens hunne Regeering het voorstel:

1°. dat als grenspunt ter Oostkust zou worden aangenomen Broershoek liggende op ongeveer 4°10' noorderbreedte, en dat de grenslijn van dit punt westwaarts zou loopen tusschen de eilanden Sibittik en Oost-Nanoekan (Het bleek later de bedoeling te zijn dat de grenslijn in westelijke richting zou samenvallen met de parallel van 4°10'), en

2°. dat de vaart op alle rivieren op het betwiste gebied liggende tusschen 3°20' en 4°20' noorderbreedte vrij verklaard zou worden, en dat de schepen der beide natiën met hunne bemanning en lading in alle opzichten op die rivieren gelijke behandeling zouden ondervinden, en dat geen doorvoerrechten zouden worden geheven.

Alvorens aan de Britsche Regeering een definitief antwoord te geven werd de Gouverneur-Generaal van Nederlandsch-Indië over de vast te stellen grenslijn geraadpleegd en hem opgedragen zich van de medewerking van den Sultan van Boelongan te verzekeren. Uit het antwoord van den Gouverneur-Generaal bleek dat de Sultan [illegible] genegen was zich te gedragen naar de schikkingen, die de Nederlandsche en de Engelsche Regeeringen zouden treffen, doch gaarne zou zien dat aan de bevolking van Boelongan gedurende 15 jaren het recht werd gelaten om vrij van belasting boschproducten te verzamelen in de streek tusschen Broershoek en Batoe Tinagat.

Een onderzoek ter plaatse door den waarnemenden adsistent-resident van Koetei bracht aan het licht dat de Badjaus, die de aan de Noordoostkust van Borneo gelegen eilanden bewonen en tot het sultanaat van Soeloe behooren, nog voortdurend in het betwiste gebied boschproducten halen zonder zich [illegible] om den Sultan van Boelongan te bekommeren. Zoowel wegens deze onzekerheid, als wegens de ontstentenis van elk document omtrent de bepaling van de grens tusschen de sultanaten van Boelongan en Soeloe, werd het zeer moeilijk geacht uit te maken tot waar zich inderdaad het gebied van Boelongan uitstrekt.

De onderhandelingen, die na het uit Indië ontvangen antwoord met de Britsche Regeering gevoerd zijn, hebben geleid tot de conventie die thans aan de bekrachtiging der Wetgevende Macht onderworpen wordt.

In hoofdzaak, namelijk voor zoover betreft Serawak, Brunei en het verst van de zee verwijderde gedeelte van Britsch Noord-Borneo, is, overeenkomstig het verlangen der Nederlandsche Regeering, de waterscheiding als grens aangenomen.

Ten aanzien van de grens door het betwiste gebied ter Oostkust van Borneo diene het volgende.

Tegenover het Britsche voorstel om de grens van de zee tot aan het centraal gebergte te doen samenvallen met de parallel van 4° 10' noorderbreedte en het eiland Sibittik geheel te doen behooren tot Britsch Noord-Borneo, werd dezerzijds het voorstel gedaan om, te beginnen op 4° 10' bij Broershoek ter Oostkust, de grenslijn te doen loopen tusschen de Simengaris- en Soelang-rivieren tot aan het centraal gebergte. Hiertegen bestond van Britsche zijde bezwaren omdat de directie der Britsche Noord-Borneo-Maatschappij de meening is toegedaan, dat de rivieren, die in het noordelijk deel der St. Luciabaai in zee stroomen, haren oorsprong ver in het noorden hebben en dus de door ons voorgestelde grens tot diep in het gebied der Maatschappij zou indringen.

Hoewel nu bij de Nederlandsche Regeering, welke in 1883 en vroeger den loop der in de St. Luciabaai uitstroomende rivieren heeft doen opnemen (1), genoegzame zekerheid bestaat, dat de Simengaris- en Soelang-rivieren, die bij die opnemingen slechts over korten afstand bevaarbaar bleken te zijn, in zuidoostelijke richting naar zee stroomen en niet ver van hare monden ontspringen, kon zij daarvan bij de geheele onbekendheid en de ongenaakbaarheid van het binnenland van Borneo te dier plaatse onmogelijk het onomstootelijke bewijs geven.

Zij erkende echter de wenschelijkheid om door eenen mogelijk korten loop der rivieren de grenslijn tot waar deze het centraal gebergte bereikt, nader te omschrijven.

Zij heeft daarom eene in noordwestelijke richting loopende rechte lijn als grens voorgesteld, die — als de meening der Regeering omtrent den korten loop der rivier juist is — genoegzame zekerheid aanbiedt, dat de Simengaris-rivier op Nederlandsch gebied zal komen te liggen.

Dit voorstel is aangenomen en in de conventie belichaamd; er is zelfs nog de bepaling aan toegevoegd, dat, wanneer de Simengaris- of eenige andere rivier, welke ten zuiden van 4° 10' noorderbreedte in zee valt, na opneming de gestelde grenslijn blijkt te overschrijden binnen eenen afstand van 5 geographische mijlen, de lijn zoodanig gewijzigd zal worden, dat zulke kleine gedeelten of bochten van rivieren in het Nederlandsch gebied worden ingesloten.

Wat het eiland Sibittik betreft was de Britsche Regeering na de weigering van de Nederlandsche om dit eiland geheel te doen behooren tot Britsch-Noord-Borneo, wel bereid het geheel als Nederlandsch grondgebied te erkennen, mits het noordelijk gedeelte aan de Britsche Noord-Borneo-Maatschappij in eeuwigdurende erfpacht werd gegeven tegen een nominalen canon en de Nederlandsche Regeering het rustig genot daarvan aan de Maatschappij zou waarborgen. Ware dit voorstel aangenomen, dan zou Nederland in naam eigenaar geweest zijn van het noordelijk gedeelte van het eiland, doch van dat eigendomsrecht niets anders dan last en onaangenaamheid en hoegenaamd geen voordeel gehad hebben.

Daarom is dezerzijds de voorkeur gegeven aan het denkbeeld om het eiland, dat geheel onbewoond is, in tweeën te deelen door de parallel van 4°10' als grens tusschen de beide deelen aan te nemen; door deze verdeeling van het eiland zullen én Nederland én de Britsche Noord-Borneo-Maatschappij dat gedeelte van het eiland in bezit hebben, dat den oever uitmaakt van het vaarwater waarlangs elk hunner het hun toegekende kustgebied moet bereiken; dit is billijk en rationeel.

Het resultaat van de onderhandelingen over de grens door het betwiste gebied ter Oostkust is, dat, met het door de Britsche Regeering voorgestelde punt van 4°10' noorderbreedte aan de kust bij Broershoek als uitgangspunt, de grens voor Nederland veel voordeeliger is genomen, dan volgens van Engelsche zijde werd verlangd, zooals blijken kan uit de bij deze Memorie gevoegde kaart, waarop zijn afgebeeld: 1°. de grenslijn, zooals die met Batoe Tinagat als uitgangspunt aan de Oostkust door de Nederlandsche Regeering werd aangenomen; 2°. de grenslijn zooals die door de Britsche Noord-Borneo-Maatschappij en ook door de Britsche Regeering werd aangenomen; 3°. de grenslijn die door de Britsche Regeering als compromis werd voorgesteld; en 4°. de grenslijn zooals zij in de conventie is omschreven.

Moet eene vergelijking van deze verschillende lijnen den schijn geven dat Nederland een gedeelte van zijn grondgebied prijs geeft, van den anderen kant mag niet over het hoofd worden gezien dat de Nederlandsche Regeering vóór dat er geschil over de grens ontstond, zich nooit aan dezen uithoek van haar gebied ter Oostkust van Borneo heeft laten gelegen liggen, die haar onbekend en bovendien geheel onbewoond was; dat de rechten van den Sultan van Boelongan op het betwiste gebied niet volkomen onbetwistbaar zijn te noemen en eindelijk dat in plaats van eene hoogst onzekere grens door eene onbekende en grootendeels ongenaakbare streek, thans eene zeer nauwkeurig omschreven grenslijn is aangenomen, die alle moeilijkheden voor de toekomst afsnijdt, niet alleen ten aanzien van het gedeelte van Borneo waarop het grensgeschil betrekking had, maar ten aanzien van het geheele eiland.

In artikel 6 der conventie is de bepaling omtrent de vrije vaart, die volgens het Britsche voorstel zich zou uitstrekken over alle rivieren gelegen tusschen 3°20' en 4°20' noorderbreedte, overeenkomstig den wensch der Nederlandsche Regeering beperkt tot de rivieren die op het betwiste kustgebied in zee stroomen.

In artikel 7 is de door het inlandsch bestuur van Boelongan verlangde bepaling omtrent de inzameling van boschproducten opgenomen.

De Minister van Buitenlandsche Zaken,

HARTSEN

De Minister van Koloniën,

MACKAY.

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(1) Vergelijk de in 1883 door het Hydrographisch Bureau te Batavia uitgegeven zeekaart der «Oostkust van Borneo van Batoe Tinagat tot Tarakan», waarvan een exemplaar ter inzage door de leden op de griffie der Kamer is nedergelegd.

BEST COPY AVAILABLE

Annex MM 52

REPORT OF DUTCH PARLIAMENTARY COMMITTEE TO STUDY THE GOVERNMENT PROPOSAL TO RATIFY THE 1891 BOUNDARY AGREEMENT, DECEMBER 2, 1891

SESSION 1891-1892.

Ratification of the agreement concluded between the Netherlands and Great Britain/Ireland on 20th July 1891 and defining the boundaries between the Dutch possessions on the island of Borneo and the British Protectorate States on the said island.

MEMORANDUM IN RESPONSE.

It is the opinion of the undersigned, and rightly acknowledged as such, that the prime advantage of this treaty is that all uncertainty concerning the borders of our Dutch possessions on Borneo has (wholly justifiably) been eradicated. The fact that the above acknowledgement came from all quarters enables us to cherish the expectation that, generally speaking, there is a willingness to step over any obstacles which might exist in the minds of those opposed to the ratification of this agreement.

If it is fair and reasonable to condemn the diplomatic policy exhibited in this affair, the undersigned are also of the opinion that they are equally justified in doubting and in opposing the idea that such condemnation was justified by the lengthy duration of the negotiations. It should be remembered here that the negotiations on the definition of the boundary for the entire island did not take all that long, and the question here is whether the advantage to the Netherlands included in this would have been obtained if the Dutch Government had not awaited the correct moment.

The remark that if the attack carried out by military police of the British North Borneo Company, which was reported in the Provisional Account and which took place on undisputed Dutch territory, really had taken place, the Dutch Government should not be satisfied with a mere expression of regret, is considered by the undersigned to be entirely justified.

It is difficult to endorse that which was reported as being the opinion of several members with regard to the viewpoint assumed by ourselves right from the beginning during the entire negotiations. Our rights to the entire island of Borneo were never brought forward during these negotiations, simply because our rights have never extended over the entire island. With regard to the issue of the east coast border, the Dutch side assumed that our territorial rights extend as far as Batu Tinagat. The large number of arguments advanced in corroboration of this assumption did not fail to include the challenging of the British maps referred to in the Provisional Account. The British Government responded to this by challenging various Dutch maps, however, which defined the boundary of Dutch territory as being a long way to the south of the actual Sibuku river. Because of this, the alleged error during negotiations was not committed, and therefore could not have resulted in the re-opening of negotiations on the border at our request, after British acceptance of the protectorate of northern Borneo. This latter point is, for that matter, not entirely correct, since our main objective in resuming negotiations in 1888 was not so much, or rather not entirely, the settlement of the border dispute on the east coast, but rather to define a satisfactory border between our territory and the British protectorates on Borneo which would run along the entire width of the island, or in other words, to obtain the advantage referred to in the introduction of the Provisional Account.

The opinion of some members that it should be laid down now and for always that the 1824 treaty does not apply to Borneo is only valid with regard to Article 15 of this treaty.

The Government need also have no hesitation in making the desired declaration that all that lies south of the border (as defined in the agreement) be acknowledged by the British as being: "the Netherlands possessions in the island of Borneo." This declaration is absolutely in keeping with the preamble and with Article 1 of the agreement. If two parties define a border in order to settle a dispute, it is surely self-evident that that which lies on one side of this border be acknowledged as belonging to the territory of the one party, and that which lies on the other side of the border as that of the other party.

With regard to the way in which the border dispute was settled, the Government fully agrees with the sentiments of those who only consider arbitration to be desirable if it is impossible to settle the issue by means of amicable agreement. If, for any reason, an amicable settlement be preferable at all times to settling the dispute by arbitral verdict, we should add in this special case that such a verdict on the border dispute around the east coast of Borneo would not have helped us reach a definition of the border across the entire island; after all, a comprehensive border agreement on Borneo, which is generally acknowledged to be an advantage, was something that we Dutch set great store on.

As regards remarks from several members that we need not be in any way ashamed to yield to Britain, as a result of an arbitral verdict, it should be inferred that regarding the amicable resolving of the border dispute now achieved (which, according to these members, would reflect badly on the Netherlands), the undersigned do not partake of this sentiment in any way whatsoever. It is inconceivable that it would reflect badly on any person, whoever he may be, who is able to resolve a dispute with his opponent in such a way that each party is willing to cede a part of its claims, and all the more so if, as in this case, other advantages are obtained at the same time. An example of such an advantage, as we have already pointed out, is the border settlement for the remainder of Borneo, which was arranged entirely in accordance with our wishes.

Such problems as those experienced with France regarding the Lawa and Tapanahoni rivers in Guyana cannot arise around the border on the east coast of Borneo, since the border coincides with established longitudinal and latitudinal degrees. Furthermore, the undersigned are able to add here that a survey of the lower reaches of both rivers was conducted last summer by marine officers from both States, and that the results of this survey are completely identical with each other.

The demand which ought to have been made, according to some members, i.e that the blue line on the map under discussion should be adopted in the treaty as the border, would have been difficult to sustain during negotiations. In such a case, the border dispute would not have been resolved in an amicable manner; on the contrary, Britain would have had to yield completely to Dutch demands. It may be argued in favour of this opinion that we were able to prove conclusively our right to the disputed area, and that we should have demanded an acknowledgement of this right from the British; nevertheless, the fact that our opponents were just as convinced of their own rights as we were would have been overlooked, and by the same token, they had just as much right to demand that we acknowledge the rights claimed by them in respect of this point.

Although it is not really relevant now, the undersigned nonetheless feel it incumbent upon them to remark here that those members who consider that Batu Tinagat is indicated as our border in the "East Indies Statute Book" are in error.

Our authority in Muara Tavao is solely represented by a native guard; we do not have very much there except for a small coal deposit.

With regard to the division of the island of Sibitik, the undersigned feel that there is no danger of any border issues, since it is impossible to quibble with the straight line identical to the parallel 4°10' northern latitude.

With regard to the question posed in the Provisional Account as to whether the entire island of Sibitik had been leased to a citizen of Banjermasin, the undersigned feel justified in referring to page 21 of the 1884 Colonial Report, where mention is made of a temporary declaration of willingness on the part of the Sultan of Bulungan to lease the island in question, together with a piece of land on the Borneo mainland, to a merchant living in Banjermasin. However, nothing ever came of this affair.

It has erroneously been inferred from the 2nd and 3rd paragraphs of the Informative Memorandum that there was also a difference of opinion with Britain regarding the border between Dutch and British territory along the west coast of Borneo. The first of these two paragraphs urged the necessity of defining a border for the whole of Borneo in order to prevent border disputes arising in the future. However, except for the east coast, there were absolutely no disputes in existence, but as long as the border remained undefined in an agreement, the possibility of future disputes was not out of the question. And the second of the two paragraphs stated that if a border were to be defined across the entire island of Borneo, this would automatically put an end to the dispute on the east coast. There was no question of any border dispute on the west coast, and as such, the subject was not mentioned.

Of recent years, a rule has been adhered to whereby the British Government is notified as soon as possible of all contracts with native sovereigns throughout the East Indies Archipelago, as well as all declarations made by the said sovereigns concerning the acknowledgement of Dutch supremacy, in accordance with Article 3, para 2 of the 1824 treaty.

The area through which the border runs along the east coast, as defined in the agreement, is unsuitable for human habitation; it will not, therefore, be possible to station an official along this border.

Articles

Art. II of the agreement:
It has erroneously been inferred from page 4 of the Informative Memorandum that the Government views the proviso (stipulating that any small parts or bends in the Simengaris river which transgress the border as defined shall nonetheless be included in Dutch territory) as being of sole advantage to the Netherlands. Some emphasis was laid on this proviso in the Informative Memorandum, for the sole purpose of demonstrating that the British Government has done its best to comply with the wishes of the Dutch Government, i.e. that the entire Simengaris river shall be included in Dutch territory, whilst the entire Sudang river shall be included in the territory of the British North Borneo Company, as stated on page 3 of the Memorandum.

Art. IV of the agreement:
The question whether the word "unconditional" also applies to the sentence: "and the area south of the parallel to the Netherlands" only admits of an affirmative answer.

Art. V of the agreement:
During the above-mentioned survey conducted on the east coast of Borneo by Dutch and British marine officers, the border points at Broershoek and on both shores of the island of Sibitik were indicated on the territory by means of poles. The allocation of the territory in the Interior of Borneo is not actually possible at the present moment. However, should circumstances render such allocation feasible and necessary in the future, both parties will indubitably be equally willing to lend their co-operation.

Art. VI of the agreement:
Since the Sibuku river itself was part of the disputed territory (if not in its entirety, certainly for half its width), and the idea was to ensure free navigation for both parties on all rivers which flow through the disputed area, the proviso stipulated in art. VI of the agreement must also apply to the Sibuku river.

The Minister of Foreign Affairs,

VAN TIENHOVEN.

The Minister of Colonies,

VAN DEDEM.

ZITTING 1891 — 1892. — 43.

Bekrachtiging van de op 20 Juli 1891 te Londen tusschen Nederland *en* Groot-Brittannië *en* Ierland *gesloten overeenkomst tot vaststelling der grenzen tusschen de Nederlandsche bezittingen op het eiland* Borneo *en de Staten op dat eiland, die onder Britsch protectoraat staan.*

MEMORIE VAN ANTWOORD.

(Ingezonden bij brief van 20 Februari 1892.)

N°. 4.

Het juistheid wordt, naar de meening der ondergeteekenden, als het voordeel van dit tractaat erkend: de opheffing van elke onzekerheid omtrent de grenzen van het Nederlandsch bezit op Borneo. Dat die erkenning in alle afdeelingen plaats had, doet de verwachting koesteren, dat men in 't algemeen bereid is, om over de bezwaren heen te stappen, welke tegen de bekrachtiging der overeenkomst uit anderen hoofde mochten bestaan.

Of eene afkeuring van het diplomatiek beleid, in deze aangelegenheid betoond, wel een billijk oordeel zou zijn, meenen de ondergeteekenden evenzeer te mogen betwijfelen, als zij meenen te mogen tegenspreken, dat zoodanige afkeuring door den langdurigen loop der onderhandelingen gerechtvaardigd zou zijn. Hierbij moge toch in herinnering gebracht worden, dat de onderhandelingen over de regeling der grens over het geheele eiland niet bijzonder lang hebben geduurd en het is hier de vraag of het daarin voor ons gelegen voordeel verkregen had kunnen worden, indien de Nederlandsche Regeering het geschikte oogenblik niet had afgewacht.

De opmerking, dat, indien de in het Voorloopig Verslag vermelde overval door politie-soldaten der British North Borneo Company op onbetwist Nederlandsch gebied ware geschied, het niet bij eene betuiging van leedwezen had mogen gelaten worden, achten de ondergeteekenden volkomen juist.

Hetgeen als de meening van enkele leden vermeld wordt omtrent het standpunt, waarop men zich in deze onderhandelingen onzerzijds van den aanvang af geplaatst heeft, kan moeielijk worden beaamd. Bij die onderhandelingen zijn nimmer onze rechten op geheel Borneo op den voorgrond gesteld, omdat onze rechten zich nooit over dat geheele eiland hebben uitgestrekt. Bij de grensquaestie ter Oostkust is van Nederlandsche zijde uitgegaan van de bewering dat ons recht zich uitstrekt tot Batoe Tinagat. Onder de vele argumenten, die tot staving van die bewering zijn aangevoerd, heeft het niet ontbroken aan een beroep op de Engelsche kaarten, welke in het Voorloopig Verslag bedoeld worden. Daartegenover wierp de Britsche Regeering zich echter op verschillende Nederlandsche kaarten, die de grens van het Nederlandsch gebied ver beneden de werkelijke Sibuko-rivier aanduidden. De vermeende fout bij de onderhandelingen is derhalve niet begaan en heeft dus niet tengevolge kunnen hebben dat na de aanvaarding door Engeland van het protectoraat over noordelijk Borneo de onderhandelingen over de grensregeling op ons verzoek werden hervat. Dit laatste is trouwens niet geheel juist; want het voornaamste doel met de door ons in 1888 geopende onderhandelingen was niet zoozeer, althans niet uitsluitend, de beslechting van het grensgeschil ter Oostkust, maar wel om tusschen ons gebied en dat van het Britsche protectoraat op Borneo over de geheele breedte van het eiland eene goede grens te doen vaststellen, dus om het voordeel te verkrijgen waarop in den aanhef van het Voorloopig Verslag gedoeld wordt.

De meening van sommige leden dat nu voor altijd zou vaststaan dat het tractaat van 1824 op Borneo geen betrekking heeft, kan alleen gelden voorzoover betreft art. 12 van dat tractaat.

Zonder eenige aarzeling kan de Regeering tevens de verlangde verklaring afleggen dat al hetgeen ten Zuiden van de in de overeenkomst omschreven grens ligt, door Engeland erkend wordt te zijn: « the Netherlands possessions in the Island of Borneo." Deze verklaring strookt volkomen met den considerans en met art. 1 der overeenkomst. Wanneer twee partijen eene grens vaststellen tot beëindiging van een geschil, spreekt het toch van zelf, dat hetgeen aan de eene zijde dier grens ligt erkend wordt te behooren tot het gebied van de eene partij en wat aan de andere zijde dier grens ligt tot dat der andere partij.

Wat betreft de wijze waarop aan het grensgeschil een einde is gemaakt, vereenigt de Regeering zich ten volle met het gevoelen van hen, die alleen dan eene arbitrage wenschelijk achten, wanneer eene schikking bij minnelijk overleg onbereikbaar is. Moet aan eene minnelijke schikking om verschillende redenen wel altijd de voorkeur gegeven worden boven de beslissing van een geschil door arbitrale uitspraak, voor dit bijzondere geval komt er nog bij, dat zoodanige uitspraak omtrent het grensgeschil ter Oostkust van Borneo ons niet zou geholpen hebben aan eene regeling van de grens over het geheele eiland en juist op eene volledige grensregeling op Borneo, welke algemeen als een voordeel wordt erkend, werd van onze zijde bijzonder prijs gesteld.

Voor zoover uit de opmerking van enkele leden dat het ons in geenen deele tot eere zou hebben gestrekt, wanneer wij op grond eener arbitrale uitspraak aan Engeland hadden moeten toegeven, moet worden afgeleid, dat, volgens hun oordeel de thans tot stand gekomen minnelijke oplossing van het grensgeschil tot mindere eer voor Nederland zou strekken, kunnen de ondergeteekenden geenszins in die gevoelens deelen. Het kan moeielijk beweerd, wien ook, tot oneer strekken wanneer hij een geschil met zijne tegenpartij minnelijk oplost, dat hij een deel zijner aanspraken laat varen, en dit te minder wanneer gelijk in dit geval bovendien nog andere voordeelen worden verkregen. Als zoodanig voordeel — hierop werd reeds gewezen — mag de grensregeling voor het overige deel van Borneo gelden, welke geheel overeenkomstig onze wenschen heeft plaats gehad.

Moeielijkheden zooals zich met *Frankrijk* ten opzichte van de Lawa en Tapanahoni-rivieren in Suriname hebben voorgedaan, kunnen ten aanzien van de grens ter Oostkust van Borneo niet voorkomen, omdat de grens samenvalt met zekere lengte- en breedtegraden. Bovendien kunnen de ondergeteekenden hier nog bijvoegen, dat in den afgeloopen zomer de benedenloop der beide rivieren door commissarissen der beide zijden is opgenomen en dat die opnemingen volkomen met elkander overeenstemmen.

De eisch, die naar de meening van sommige leden had moeten worden gesteld, dat namelijk als grens in het tractaat behoorde te zijn aangenomen de op de overgelegde kaart aangegeven blauwe lijn, zou bij het voeren der onderhandelingen moeielijk vol te houden zijn geweest. Er zou dan toch geen sprake geweest zijn van eene minnelijke oplossing van het grensgeschil, maar van een volledig toegeven aan onze eischen door Engeland. Men moge voor die meening aanvoeren, dat wij ons goed recht op de betwiste streek volledig konden bewijzen, en dat wij dit door Engeland hadden moeten doen erkennen, doch men zou daarbij over het hoofd zien, dat de tegenpartij, evenzeer als wij, beweerde van haar goed recht overtuigd te zijn en op dat standpunt evenmin had kunnen eischen, dat wij haar beweerd recht volledig hadden erkend.

Hoewel het thans weinig meer ter zake doet, moeten de ondergeteekenden te dezer plaatse doen opmerken dat de hier bedoelde leden zich vergissen, wanneer zij meenen dat in Indisch Staatsblad 1849 n°. 40, Batoe Tinagat als onze grens werd aangegeven.

Te Menara Tawao wordt ons gezag alleen vertegenwoordigd door een inlandschen posthouder; ons materieel aldaar bestaat uit niet veel meer dan een klein kolendepot.

Wat aangaat de verdeeling van het eiland Sebittik, bestaat er, volgens het gevoelen der ondergeteekenden, geen gevaar voor grensquaestiën, daar omtrent de rechte lijn, overeenstemmende met de parallel 4° 10′ N.B., wel geen verschil mogelijk is.

Ten aanzien van de in het Voorloopig Verslag gedane vraag, of soms het geheele eiland Sebittik in erfpacht is uitgegeven aan een ingezetene van Bandjermasin, zij het den ondergeteekende vergund te verwijzen naar blz. 21 van het Koloniaal Verslag van 1884, waar melding is gemaakt van eene *voorloopige* bezitverklaring van den Sultan van Boeloengan om het eiland met een stuk grond op het vaste land van Borneo aan een te Bandjermasin gevestigden koopman in erfpacht te geven. Van deze zaak is echter niets gekomen.

Ten onrechte is uit de 2de en 3de alinea der Memorie van Toelichting afgeleid, dat er met Engeland verschil bestond ook omtrent de grens tusschen het wederzijdsch gebied ter Westkust van Borneo. De eerste dier beide alinea's betoogde de wenschelijkheid om de grens over geheel Borneo vast te stellen, ten einde grensgeschillen *voor de toekomst* te voorkomen. Behalve ter Oostkust bestond er volstrekt geen geschil, maar zoolang de grens niet bij overeenkomst geregeld was, was de mogelijkheid van latere geschillen niet uitgesloten. En de tweede alinea zeide, dat, wanneer eene regeling van de grens over geheel Borneo werdt vastgesteld, tevens (d. i. vanzelf) een eind zou komen aan het grensgeschil ter Oostkust. Van een grensgeschil aan de Westkust was daarbij geen sprake en daarop werd dan ook niet gedoeld.

In den laatsten tijd wordt als regel gevolgd, dat alle contracten met inlandsche vorsten in den Indischen Archipel en alle verklaringen van zoodanige vorsten, betreffende de erkenning van de Nederlandsche heerschappij, zooveel mogelijk aan de Britsche Regeering worden medegedeeld, ter uitvoering van art. 3, al. 2, van het tractaat van 1824.

De streek, waardoor de in de overeenkomst omschreven grens ter Oostkust van Borneo loopt, is voor bewoning ongeschikt; er zal dus geen onklaarheid in de zekerheid dier grens geplaatst kunnen worden.

Artikelen.

Art. II der overeenkomst. Ten onrechte wordt uit blz. 4 der Memorie van Toelichting afgeleid, dat de Regeering uitsluitend voor Nederland een voordeel ziet in de bepaling dat kleine gedeelten of bochten der Simengaris-rivier, die de aangenomen grenslijn overschrijden, toch in het Nederlandsch grondgebied zullen worden ingesloten. Op deze bepaling werd in de Memorie van Toelichting eenige nadruk gelegd alleen om te doen uitkomen, dat de Engelsche Regeering zooveel mogelijk is te gemoet gekomen aan het verlangen der Nederlandsche Regeering, hierin bestaande dat de geheele Simengaris-rivier tot ons gebied en de geheele Soedang-rivier tot het gebied der British North Borneo Company zou behooren, zooals op blz. 3 der Memorie vermeld werd.

Art. IV der overeenkomst. De vraag of het woord: „onvoorwaardelijk" ook toepasselijk is op de zinsnede: „en het gedeelte ten zuiden van de parallel aan Nederland" is slechts voor een bevestigend antwoord vatbaar.

Art. V der overeenkomst. Bij de hierboven vermelde opneming ter Oostkust van Borneo door Nederlandsche en Britsche zeeofficieren zijn reeds de grenspunten bij Broershoek en op de beide kusten van het eiland Sebittik op het terrein door palen aangewezen. Aanwijzing op het terrein in het binnenland is voorshands feitelijk niet wel mogelijk. Als de omstandigheden in latere jaren die aanwijzing noodig en mogelijk zullen maken, is het niet twijfelachtig, dat beide partijen evenzeer bereid zullen zijn hare medewerking daartoe te verleenen.

Art. VI der overeenkomst. Daar de Sibockoe-rivier zelve, zoo al niet geheel dan toch zeker over hare halve breedte tot het betwiste terrein behoorde, en het de bedoeling was aan beide partijen de vrije vaart te verzekeren op alle door het betwiste gebied stroomende rivieren, moet de bepaling van art. VI der overeenkomst geacht worden ook op de Sibockoe-rivier betrekking te hebben.

De Minister van Buitenlandsche Zaken,

VAN TIENHOVEN.

Annex MM 53

MEMORANDUM IN RESPONSE DATED 20 FEBRUARY 1892, RATIFICATION OF THE AGREEMENT CONCLUDED BETWEEN THE NETHERLANDS AND THE GREAT BRITAIN/IRELAND ON 20 JUNE, 1891 AND DEFINING THE BOUNDARIES BETWEEN THE DUTCH POSSESSIONS ON THE ISLAND OF BORNEO AND THE BRITISH PROTECTORATE STATES ON THE SAID ISLAND, FEBRUARY 20, 1892

SESSION 1891-1892

Ratification of the agreement between the Netherlands, Great Britain and Ireland, concluded on 20th June 1891 in London for the purpose of establishing the borders between Dutch colonial possessions on the island of Borneo and those States on the said island which are British Protectorates.

N.B.: "we" and "us" in this translation refer to the Dutch (Government).

The investigation into this Bill within the departments of the Chamber has resulted in the following observations:

All departments considered it to be an advantage that this treaty would put an end to the alleged uncertainty concerning the borders of the Dutch possessions in Borneo. However, a great many people did not wish this recognition of the said borders to be viewed as approval of diplomatic policy in this affair; furthermore, the lengthy duration of the negotiations was deplored. In proof of the fact that it is most desirable that this question of the borders be settled once and for all, the incident of an attack on Sematalun Dayaks by military police of the British North Borneo Company (as reported in the Colonial Report of the Dutch East Indies for 1891, page 15, column 2) was stressed. Since this incident took place within the disputed territory, we might possibly be satisfied with the expression of regret on the part of the British Government; nevertheless, if something like this had occurred on territory under Dutch protectorate, such regrets would then have been insufficient.

In the opinion of several members, an unjust view has been taken of the part played by the Dutch in the said negotiations right from the start. Instead of making a particular issue of our rights on Borneo, it would have been more sensible to refer to the origin of the misunderstanding, which (as Mr. Versteeg, chairperson of the Geological Society, has demonstrated) is nothing less than an error on the old maps, on which a certain river east of Batu Tinagat was erroneously named as the Sibuku River. The outcome of this error, when the affair was discussed, was - according to the above members - that the Memorandum from the Dutch Government, dated 13th March 1884, was not even answered, and that, after British acceptance of protectorate over northern Borneo, notwithstanding our indubitable rights, negotiations on the borders were re-opened at our request.

The question of how far Britain was justified in accepting protectorate of the northern part of Borneo arose in the majority of departments; some members bemoaned the fact that our Government did not lodge a protest against this on the grounds of the Treaty of London, dated 17th March 1824. In their opinion, infringement had been made, if not of the letter, of the spirit of this treaty, the tenor of which was to exclude any possibility of joint ownership, whilst the mainland should come under British rule and the islands under Dutch rule. It is true that this agreement could no longer be referred to, but the said members nevertheless attached importance to the expression of their conviction regarding the interpretation of the 1824 treaty, especially now that the Government still supports our own viewpoint on the matter in the Informative Memorandum added to the first submittance of this Bill. Other members, on the other hand, were unable to agree with this opinion, and, like the Government, maintained that the 1824 treaty does not apply to Borneo. Referring to the terms of the treaty, which they had in their hands, they considered that it would be more sensible to relinquish an interpretation of which there was scarcely anything in favour. These members were also able to resign themselves to the fact that it had been permanently established that the treaty in question does not apply to Borneo, especially since a direct consequence of this is that Britain can never derive any rights from the treaty in question (particularly article 15) with regard to Borneo. It would be greatly appreciated if the government were to adopt this as its opinion. With regard to the joint possessions with Britain on Borneo, there was no cause for anxiety, provided that a definite border be established. All the more since it has been decided once and for always betweën both States that all that lies south of the new border should be recognised by Great Britain as: "the Netherland possessions in the Island of Borneo" (quote), although this recognition should have been expressed more clearly in the treaty. In this regard, therefore, it was felt to be desirable that the Government should make a declaration of confirmation on the matter.

Some members had read with regret the Introduction of the Informative Memorandum, whereby it occurred to them that this Introduction would have been better omitted. In addition, the thought processes of the person responsible for compiling the Memorandum were not considered by the members to be completely lucid. Simultaneously, it can be read there that there was no objection to the protectorate on the part of the Government, since none of the Netherlands' rights had been violated, and also because the bringing up again of the interpretation of the 1824 treaty (supported by the Netherlands since 1845) would naturally produce no more results than on the previous occasion. The general opinion was that this double motive argued a lack of conviction. But in that case, why not leave the issue undiscussed in an official document, confining oneself instead to that stated in Paragraph 2 of the Memorandum, i.e. that in the interests of the Netherlands, it was essential to establish a definite border. In that case, the possibility of our own continual interpretation of the treaty being justified at any time, would not have been permanently cut off.

Many differing opinions were also voiced with regard to the way in which the border dispute was resolved. Several members would have preferred arbitration to a settlement whereby we relinquished territory which indubitably belonged to us. These members were of the opinion that it would be sensible for a small State with extensive colonial possessions to allow border issues to be resolved by means of arbitration. If we had had to cede (territory) to Britain on the basis of an arbitral verdict, this would not have disgraced us in any way.

This opinion did not remain uncontested. Many members were of the opinion that arbitration should only be resorted to on condition that a settlement cannot be reached through amicable agreement, which was not the case in this instance, according to the agreement put forward for ratification. The fact that a concession on our part had to be made was due to the nature of the affair. Any amicable agreement entails a partial sacrifice of presumed rights from both sides.

It was asked whether the East Indies Government's advice had been sought with regard to this agreement, not in view of the desirability of the draft settlements, but in order to obtain certainty with regard to the identity of the rivers named in the agreement, in order to avoid a similar kind of issue as the one concerning the Lawa territory in Guyana, which caused so many problems with France.

Other members voiced serious objections to the border division laid down in the agreement. They pointed out that in the East Indies Statute Book 1877, no.31, Bulungan - including the Tidong lands and the island of Sebitik - has already been registered as Dutch territory. Therefore, the border ought to run along the blue line indicated on the map submitted. These members lashed out against the ceding of Batu Tinagat in particular, which (according to the East Indies Statute Book 1849, no.40) has been established as our definite border for 40 years, where the Dutch flag is hoisted, coal deposits situated, an armed vessel stationed, and a Government official in residence. Territory which so indubitably belonged to us should not have been ceded. There was no uncertainty regarding the status of Batu Tinagat; we were able to prove completely our right to this place, and we should have insisted that Britain recognise this.

Other members, although also bemoaning the loss of Batu Tinagat, nevertheless expressed the opinion that the ultimate goal should not be lost sight of. If no concession from the Netherlands were forthcoming, no agreement could have been reached on the establishing of a definite border. The question was whether the price paid for this advantage (recognised as such by all parties) had not been too high, and this question was answered in the negative by these members. Nonetheless, one should not disregard the fact that (also according to the Informative Memorandum) the correct borders indicating the Sultan of Bulungan's territory cannot be indicated with any certainty. Furthermore, the disputed area is a wilderness, where certainly no European has yet set foot. The ceding of a relatively small part of this area in order to put an end to a dispute which has been going on for years, is extremely justifiable from the viewpoint of sensible policy.

In connection with this discussion, it was asked what Dutch officials and materials are actually present in Batu Tinagat and Tawao at the present moment.

Some members were dubious about the dividing up of the island of Sebitik. They feared that this would result in complications as a result of border issues. Nevertheless, this opinion met with opposition from certain members who, taking into consideration the state of the island, did not share the fear of border disputes. They were also of the opinion that it might be a good idea to retain at least a part of Sebitik, which by its situation is able to control all access to the deltas beyond.

A question was asked whether the entire island of Sebitik had indeed been leased to a Dutch subject residing in Banjermasin (as one of the members claimed was the case), and, if so, whether this would cause any problems in connection with the ceding of part of this island.

Attention was drawn to Paragraphs 2 and 3 of the Informative Memorandum, from which it was deduced that this agreement also - if not primarily - serves to establish a border in order to avoid disputes on the west coast of Borneo. Moreover, this is obliquely referred to in the following sentence: "If a border agreement were to be concluded on Borneo, this would also put a stop to the dispute regarding the border on the east coast of Borneo, which has been going on for several years, between our own territory and that of the British North Borneo Company." The fact that this would put a stop to the troubles on the west coast was greeted with enthusiasm, even though it might be considered a trifle strange that the previous (recently outgoing) Government had adjudged this agreement still to be necessary to achieve this end, whilst it had already been stated in the Memorandum (in response to the Temporary Report on the 111th chapter of the National Budget for 1891) that "we have no dispute with Britain on the west coast border" (page 4).

The note on page 2 of the Informative Memorandum, as well as that part of the Memorandum referred to in the said note, gave rise to a plea stressing the desirability of bringing any contracts concerning protectorates or the annexing of territory to the immediate knowledge of all powers concerned in the matter, and not to postpone this notification or fail to pass on the information due to a fear that problems might arise, since such a course of action would only create more serious imbroglios in the future. It was hoped that the Government's view on this matter had also been expressed herewith.

Finally, the Government was asked if the posting of a Government official at one or more points along the new border, e.g. at Broershoek, did not merit consideration.

Articles

Article II of the agreement:

On page 4 of the Informative Memorandum, a proposal has been made (as if this should be considered as a great advantage to the Netherlands) to the effect that, should it transpire that the Simengaris river, or any other river entering the sea south of 4° 10" northern latitude exceed the definitive borderline after its delineation to within a distance of 5 geographical miles, the borderline shall be altered in such a way as to enclose any such small bends or parts of the rivers within Dutch territory. Without wishing to deny the advantage of this, attention was drawn to the fact that in the same article, the same concession has been made to Britain by the Netherlands, so that this article should not be regarded as being particularly advantageous to the Netherlands.

Article IV of the agreement:
The question was asked whether the word "unconditional" is also applicable to the following sentence: "and the part south of this parallel to the Netherlands".

Article V of the agreement:
A wish was expressed that the marking out of the agreed borderline should be carried out as soon as possible. Use should be made of the circumstance that the governments of both States have now succeeded in resolving the border dispute, in order to settle the affair once and for all. This urgency was partially based on the final words of the article, where it was resolved that the correct situation of the borderline shall be designated "at those points in time adjudged as suitable by the Dutch and British Governments". Although most people were convinced that this stipulation would not be put to improper use, each of the contracting parties could nevertheless use it to attempt continually to shift the actual border about.

Article VI of the agreement:
It was generally agreed to be desirable first to establish whether shipping on the Sibuku river should also be released, and subsequently whether the rivers between Tawao and Broershoek are also included in the terms of the agreement. In view of the editing of the article, the answer to the first question was in the negative, and to the second in the affirmative.

Decreed thus on 2nd December 1891, by the Commission of Reporters:

Bool, Van Bylandt, Geertsema, Boreel van Hogelanden and Brantsen van de Zijp.

ZITTING 1891—1892. — 43.

[illegible] van de op 20 Juni 1891 te Londen [illegible] Nederland en Groot-Brittannië en [illegible] overeenkomst tot vaststelling der grenzen tusschen de Nederlandsche bezittingen op het eiland Borneo en de Staten op dat eiland, die onder Britsch protectoraat staan.

VOORLOOPIG VERSLAG.

N°. 3.

Het onderzoek van dit wetsontwerp in de afdeelingen der Kamer, gaf aanleiding tot de volgende beschouwingen:

In alle afdeelingen werd het als een voordeel erkend, dat door dit tractaat een einde zou komen aan de bezwarende onzekerheid omtrent de grenzen van het Nederlandsche bezit op Borneo. Zeer velen wenschten deze erkenning evenwel niet beschouwd te zien als eene goedkeuring van het diplomatiek beleid in deze aangelegenheid. Men betreurde o. a. den langdurigen loop dezer onderhandelingen. — Ten bewijze hoe wenschelijk het is, dat deze grenskwestie eindelijk geregeld worde, wees men op het feit, vermeld in het Koloniaal Verslag van Nederlandsch Oost-Indië over 1891, blz. 15 2de kolom, namelijk de overval door politiesoldaten van de British North-Borneo Company op Semataloen-Dajaks aangericht. Nu dit feit zich voordeed in het betwiste gebied, kon men wellicht met de betuiging van leedwezen van de zijde der Engelsche Regeering genoegen nemen; doch was iets dergelijks voorgevallen op gebied onder Nederlandsch protectoraat staande, zoo had men het daarbij niet mogen laten.

Volgens de meening van enkele leden heeft men zich in deze onderhandelingen onzerzijds van den aanvang af op een onjuist standpunt geplaatst. In stede van onze rechten op Borneo op den voorgrond te stellen, had men verstandiger gehandeld door zich te beroepen op den oorsprong van het misverstand, hetwelk, gelijk de heer VERSTEEG, voorzitter van het Aardrijkskundig Genootschap, heeft aangetoond, (1) niets anders geweest is dan eene fout op oude kaarten, waarop ten onrechte een rivier ten oosten van Batoe Tinagat als Siboekoerivier stond aangegeven. Het gevolg van deze fout bij de behandeling der zaak was, naar deze leden opmerkten, geweest, dat de Nota der Nederlandsche Regeering van 13 Maart 1884 zelfs niet werd beantwoord, en dat, na de aanvaarding door Engeland van het protectoraat over noordelijk Borneo, niettegenstaande ons ontwijfelbaar goed recht, de onderhandelingen over de grensregeling op ons verzoek werden heropend.

De vraag in hoeverre Engeland gerechtigd was het protectoraat over het noordelijk gedeelte van Borneo te aanvaarden, kwam in de meeste afdeelingen ter sprake. Sommige leden betreurden het dat onze Regeering daartegen niet geprotesteerd heeft op grond van het *Londensche* tractaat van 17 Maart 1824. Huns inziens was inbreuk gemaakt zoal niet op de letter, dan toch op den geest van dat tractaat, waarvan de strekking was gemeenschappelijk bezit uit te sluiten, en het vaste land aan Engeland, de eilanden aan Nederland te laten. Hierop kon bij deze overeenkomst nu wel is waar niet meer teruggekomen worden, doch deze leden hechtten er waarde aan, hunne overtuiging omtrent de interpretatie van het tractaat van 1824 hier uit te spreken, vooral nu de Regeering zonder noodzaak in de Memorie van Toelichting, gevoegd bij de eerste indiening van dit wetsontwerp (Zitting 1890—1891. — 197), [illegible] daaromtrent [illegible]. Andere leden konden zich met deze beschouwing niet vereenigen. Zij waren met de Regeering van oordeel, dat het tractaat van 1824 op Borneo geen betrekking heeft. Huns inziens deed men verstandig door niet langer aan eene interpretatie vast te houden, waarvoor, met den tekst van het tractaat in handen, zeker niets te zeggen viel. Deze leden konden er dan ook in berusten, dat voor altijd vaststond, dat op Borneo het tractaat in quaestie geen betrekking heeft, vooral ook omdat daaruit rechtstreeks volgt, dat ten opzichte van Borneo ook Engeland aan dat tractaat, speciaal aan art. 15, nooit eenig recht zal kunnen ontleenen. Men zou er prijs op stellen indien ook de Regeering dit als hare overtuiging uitsprak. — Wat betreft het gemeenschappelijk bezit met Engeland op Borneo, men behoefde zich daarover, mits de grens behoorlijk vaststond, niet bezorgd te maken. Te meer daar thans voor altijd tusschen de beiden Staten is uitgemaakt, dat al hetgeen ten zuiden der nieuwe grens ligt door Groot-Brittannië erkend wordt te zijn: the Netherland possessions in the Island of Borneo, al had deze erkenning duidelijker in het traktaat kunnen zijn uitgedrukt. Gaarne wenschte men daaromtrent nog eene bevestigende verklaring der Regeering te ontvangen.

Sommige leden hadden met leedwezen den aanhef van de Memorie van Toelichting gelezen. Het kwam hun voor, dat deze beter achterwege ware gebleven. Ook den gedachtengang van den steller der Memorie daar ter plaatse achtten die leden niet volkomen helder. Men leest daar te gelijker tijd, dat men zich van Regeeringswege niet tegen het protectoraat verzette, omdat geen recht van Nederland was aangerand, en omdat het opnieuw „te berde brengen" van de sedert 1845 van Nederlandsche zijde voorgestane interpretatie van het Londensche tractaat van 17 Maart 1824 natuurlijk evenmin als vroeger eenig resultaat zou opleveren. Men meende dat uit deze dubbele motiveering een gebrek aan overtuiging sprak. Maar waarom dan in een officieel stuk niet liever de quaestie onbesproken gelaten, en zich bepaald tot hetgeen in de 2de alinea der Memorie van Toelichting wordt gezegd, namelijk dat het belang van Nederland het tot stand komen van eene grensregeling eischt. Dan ware niet voor immer de mogelijkheid afgesneden, dat aan de steeds door ons gehuldigde uitlegging van het tractaat nog te eeniger tijd recht zou zijn wedervaren.

Omtrent de wijze waarop aan het grensverschil een einde was gemaakt, werd evenzeer in verschillenden zin gesproken. Er waren enkele leden, die boven eene schikking, waarbij wij grondgebied afstonden, hetwelk ontwijfelbaar aan ons toebehoorde, de voorkeur zouden gegeven hebben aan arbitrage. Huns inziens was het voor een kleinen Staat met uitgestrekte koloniën verstandig grensquaestiën door arbitrage te doen beslissen. Hadden wij op grond van eene arbitrale uitspraak aan Engeland moeten toegeven, zoo zou ons dit in geenen deele tot oneer hebben gestrekt.

Dit gevoelen bleef niet onweersproken. Vele leden waren van oordeel, dat men alleen dan tot arbitrage zijn toevlucht moet nemen, wanneer eene schikking bij minnelijk overleg onbereikbaar is, hetgeen hier, blijkens de ter bekrachtiging voorgedragen overeenkomst, niet het geval was. Dat daarbij onzerzijds iets moest worden toegegeven, lag in den aard der zaak. Elke minnelijke schikking onderstelt van beide zijden een gedeeltelijke opoffering van vermeende rechten.

Gevraagd werd of omtrent deze overeenkomst het advies der Indische Regeering is ingewonnen, niet met het oog op de al of niet wenschelijkheid der ontworpen schikkingen, maar ten einde zekerheid te verkrijgen omtrent de identiteit der in de overeenkomst genoemde rivieren, opdat zich niet eene quaestie zou kunnen voordoen, als onlangs tot zoovele moeilijkheden met Frankrijk omtrent het Lawa-gebied in Suriname had aanleiding gegeven.

Tegen de in de overeenkomst vastgestelde grensscheiding opperden sommige leden ernstige bedenkingen. Zij wezen er op dat in het *Indisch Staatsblad* van 1877, n°. 31, Boelongan, waaronder ressorteeren de Tidoengsche landen en het eiland Sebittik, reeds als Nederlandsch grondgebied staat aangegeven. De grens scheidt dus te

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(1) Tijdschrift van het Nederlandsch aardrijkskundig genootschap, tweede serie, deel V, afd. Verslagen en aardrijkskundige mededeelingen, blz. [illegible] e. v. en deel VI afd. Verslagen en aardrijkskundige mededeelingen, blz. 47 e. v.

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loopen, zooals op de overgelegde kaart door de blauwe lijn is aangegeven. Vooral werd door deze leden gelaakt het prijsgeven van Batoe Tinagat, hetwelk reeds sinds 40 jaren, [illegible] van 1849, [illegible] waar een [illegible]. Het eiland, hetwelk [illegible], mocht niet zijn afgestaan. Ten opzichte van Batoe Tinagat bestond geen onzekerheid. Wij konden ons goed recht op die plaats volledig bewijzen, en hadden dit door Engeland moeten doen erkennen.

Andere leden, hoewel ook zij het verlies van Batoe Tinagat betreurden, drukten hunne meening uit, dat [illegible] met hetgeen ten deze te verkrijgen was. Zonder concessie onzerzijds, was het tot stand brengen eener grensregeling niet te bereiken. De vraag was, of dit van alle zijden erkend voordeel te duur was gekocht, en die vraag meenden deze leden ontkennend te moeten beantwoorden. Men moest toch niet over het hoofd zien, dat, ook blijkens de Memorie van Toelichting, de juiste grenzen van het gebied van den sultan van Boeloengan niet met zekerheid zijn aan te geven. Bovendien is de streek, waarover het geschil liep, een wildernis en zeker over de geheele lengte nog door geen Europeaan bezocht. Hiervan een betrekkelijk klein gedeelte prijs te geven, om zoodoende een einde te maken aan een jarenlang hangend geschil, liet zich uit een oogpunt van verstandige politiek zeer goed verdedigen.

In verband met deze bespreking werd de vraag gedaan, wat op dit oogenblik nog aan Nederlandsch personeel en materieel te Batoe Tinagat en Tawao aanwezig is.

De verdeeling van het eiland Sebittik kwam sommigen leden bedenkelijk voor. Zij vreesden als gevolg daarvan verwikkelingen naar aanleiding van grensquaestiën. Doch dit gevoelen ontmoette tegenspraak van de zijde van leden, die, de gesteldheid van het eiland in aanmerking genomen, de vrees voor grensgeschillen niet deelden, en meenden dat het van beteekenis kan wezen Sebittik, hetwelk door zijne ligging den toegang tot de daarachter gelegen riviermonden beheerscht, althans voor een deel te behouden.

De vraag werd gedaan of niet, gelijk een lid meende te weten, het geheele eiland Sebittik in erfpacht is gegeven aan een te Bandjermasin gevestigd Nederlandsch onderdaan, en zoo ja, of dan uit den afstand van een gedeelte van dat eiland, geen moeilijkheden konden voortkomen.

De aandacht werd gevestigd op de 2de en 3de alinea der Memorie van Toelichting, waaruit men afleidde dat deze overeenkomst ook, zoo niet in de eerste plaats, strekt om een grensregeling ter vermijding van geschillen aan de Westkust van Borneo tot stand te brengen. Immers dit volgt zijdelings uit de volgende zinsnede: »Werd een grensregeling op Borneo gemaakt, dan zou tevens een einde komen aan het reeds sedert verscheidene jaren hangende geschil omtrent de grens ter Oostkust van Borneo tusschen ons gebied en dat der Britsche Noord-Borneo-Maatschappij." Men juichte het toe, dat daardoor de moeilijkheden aan de Westkust voor het vervolg zouden zijn afgesneden, al mocht het eenigszins bevreemdend heeten, dat daarvoor deze overeenkomst naar het oordeel der onlangs afgetreden Regeering nog noodig was, terwijl in de Memorie van Beantwoording van het Voorloopig Verslag betreffende het IIIde hoofdstuk der Staatsbegrooting voor 1891, reeds werd gezegd dat »omtrent de grens ter Westkust van Borneo geen verschil met Engeland bestaat". (Memorie van Antwoord blz. 4.)

De noot op blz. 2 der Memorie van Toelichting en het gedeelte der Memorie, waarop die noot betrekking heeft, gaf aanleiding tot het betoog der wenschelijkheid, om contracten omtrent protectoraten of aanhechting van grondgebied, steeds onmiddellijk ter kennis te brengen van alle mogendheden, die daarbij belang kunnen hebben, en althans niet uit vrees voor moeilijkheden die kennisgeving uit te stellen of achterwege te laten, daar zoodoende slechts ernstiger verwikkelingen voor de toekomst worden geschapen. Men hoopte hiermede ook de zienswijze der Regeering op dit punt te hebben uitgedrukt.

Eindelijk werd aan de Regeering gevraagd, of het geen overweging verdiende, op een of meer punten van de nieuwe grens, bijv. te Broershoek, een [illegible] te plaatsen.

Artikelen.

Art. II der overeenkomst. Op blz. 4 der Memorie van Toelichting wordt het voorgesteld, alsof het een groot voordeel voor Nederland moet geacht worden, dat, ingeval de Simengaris-rivier of eenige andere rivier, welke ten zuiden van 4° 10' noorderbreedte in zee valt, na opneming de gestelde grenslijn blijkt te overschrijden binnen een afstand van 5 geographische mijlen, de lijn zoodanig zal gewijzigd worden, dat zulke kleine gedeelten of bochten van rivieren in het Nederlandsch grondgebied worden ingesloten. Zonder dit voordeel te willen miskennen, vestigde men er toch de aandacht op, dat in hetzelfde artikel gelijke concessie door Nederland ten behoeve van Engeland wordt gedaan, zoodat men dit artikel niet als bijzonder gunstig voor Nederland kan aanmerken.

Art. IV der overeenkomst. Men vroeg of het woord »onvoorwaardelijk" ook toepasselijk is op de zinsnede: »en het gedeelte ten zuiden van die parallel aan Nederland".

Art. V der overeenkomst. De wensch werd uitgesproken, dat men zoo spoedig mogelijk zou overgaan tot de aanwijzing der overeengekomen grenslijn. Men moest van de omstandigheid, dat het der Regeeringen van beide Staten nu gelukt is om het grensgeschil te beëindigen, gebruik maken, om de zaak, die zoolang hangende is geweest, *geheel* geheel te regelen. Deze aandrang werd gedeeltelijk gegrond op de slotwoorden van het artikel, waarbij bepaald wordt, dat de juiste ligging van de grenslijn zal worden aangewezen »op de tijdstippen, die de Nederlandsche en Britsche Regeeringen daarvoor *geschikt* zullen oordeelen". Hoewel men overtuigd was, dat van deze clausule geen misbruik zal gemaakt worden, zou toch elk der contracteerende partijen er het recht aan kunnen ontleenen, de feitelijke grensaanduiding voortdurend te verschuiven.

Art. VI der overeenkomst. Gaarne vernam men, vooreerst of de scheepvaart ook op de Sibockoe-rivier vrijgelaten zal moeten worden, en vervolgens of ook de rivieren tusschen Tawao en Broershoek onder deze bepaling vallen. Met het oog op de redactie van het artikel meende men de eerste vraag ontkennend, de tweede bevestigend te moeten beantwoorden.

Aldus vastgesteld door de Commissie van Rapporteurs den 21en December 1891.

DOOL.
VAN BYLANDT.
GEERTSEMA.
BORSEL VAN HOGELANDEN.
BRANTSEN VAN DE ZIJP.

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Annex MM 54

DESCRIPTION OF THE BOUNDARIES OF THE TERRITORY OF BOELOENGAN AND LIST OF THE ISLANDS BELONGING THERETO SIGNED BETWEEN MOHAMAD MIMOEDIN PANGERAN MANGKOE DATOE SAHOEDIN AND THE RESIDENT OF THE SOUTHERN AND EASTERN DIVISION OF BORNEO, JUNE 19, 1893

BOELOENGAN.

DELIMITATION OF THE TERRITORY.

Description of the Boundaries of the Territory of Boeloengan, and List of the Islands belonging thereto.

THE boundaries of the territory of Boeloengan are:—

1. As regards the territory of Goenoeng-Taboer: the River Karang Tigan, from its mouth to its source, furthermore, the Batoe Boekir and the Palpakh Mountain.

2. As regards the States in the Island of Borneo, under British Protectorate: a portion of the frontier-line as agreed on, between the Netherland possessions on the Island of Borneo and the States on that island, which are under British protection, in the Convention concluded in London on the 20th June, 1891, which Convention was sanctioned by the Law of the 4th April, 1892, viz., that portion lying east of the point where the boundary-line between Boeloengan and Koetei meets the boundary-line first named.

The Islands of Tarakan and Nanoekan and that portion of the Island of Sebitik, situated to the south of the above boundary-line, described in the "Indisch Staatsblad" of 1892, No. 114, belong to Boeloengan, as well as the small islands belonging to the above islands, so far as they are situated to the south of the boundary-line last mentioned.

This list replaces the one belonging to Article II of the Contract concluded on the 2nd June, 1878, between the Resident of the South and East Divisions of Borneo and the Sultan and Grandees of Boeloegan, and approved and ratified by the Governor-General on the 19th October of the same year.

Boeloengan, June 19, 1893.

(Signed) MOHAMAD MIMOEDIN.
PANGERAN MANGKOE.
DATOE SAHOEDIN.

(Signed) JOEKES,
Resident of the South and East Division of Borneo.

A correct copy:
(Signed) COHEN STUART,
Government Secretary.

A correct copy:
(Signed) A. E. ELIAS,
Secretary-General in the Ministry of the Colonies.

Annex MM 55

LETTER FROM JOHN HAY, US SECRETARY OF STATE TO THE SECRETARY OF THE NAVY, APRIL 3, 1903

G.B.No.326. Copy.

(COPY--McC).

DEPARTMENT OF STATE,
Washington,

April 3, 1903.

The Honorable
the Secretary of the Navy.

Sir:-

Your letter of the 14th ultimo (G.B.No.326) has had the attentive consideration of this Department. You state therein that it has been called to your attention that certain maps of the Philippine Islands, published by the War Department, do not include within the limits of the possession of the United States several outlying islands of the Sulu Archipelago over which Spain formerly exercised or claimed sovereignty, the islands in question being several small groups lying in the straits of Balabac or the Sulu Sea more than three marine leagues from the coast of Borneo. On comparison of the provisions of the Treaties of 1898 and 1900 between the United States and Spain, as well as of the Protocol of 1885 between Germany, Great Britain and Spain, touching the sovereignty of the Sulu Islands, it is your understanding that the sovereignty of the United States covers all outlying islands, islets and reefs that lie more than three marine leagues from the coast of British North Borneo, except the islands of Balambangan, Banguey and Malawali. You request this Department to examine the question and inform you whether your interpretation of the treaties is correct, or whether there exists some treaty contered into by Spain subsequent to the Protocol of 1885 and previous to the Treaty of Peace with the United States by reason of which the territories of Spain at the time of the latter were not co-extensive with the description of them in the former. If this Department coincides with you interpretation, you state your intention of having a chart issued which will clearly show the boundary line, and of requesting the War Department to have its maps corrected.

Spain, by the Treaty of Peace of December 10, 1898, ceded to the United States by metes and bounds, "the Archipelago known as the Philippine Islands;" and by the subsequent treaty signed November 7, 1900, specifically relinquished to the United States all title and claim of title which she might have had at the time of the conclusion of the Treaty of Peace to any and all islands belonging to the Philippine Archipelago and lying outside the lines described in Article 3 of the Treaty of Peace, and particularly to the islands of Cagayan Sulu (*Cagayan de Jolo*) and Sibutu

Of the islands named, Sibutu is the most southwesterly of the Sulu group proper, lying almost south of the eastern extremity of British North Borneo; while Cagayan de Sulu (identified as its name shows with the Sulu group) lies to the northwest of the main Archipelago, some distance north of the North Borneo mainland and to the eastward of the most northerly cape thereof.

Spain having thus relinquished to the United States all title and claim of title appertaining to her at the date of the Treaty of Peace, in and to the Sulu Archipelago, expressly naming two of the well-known Suluan Islands, it is proper in the first place to examine what little existed and was claimed by Spain to the Sulu Archipelago at that time, and, incidentally, to take note of any conventional recognition of Spanish title thereto on the part of other powers.

Spain's claim of seigniory and protection over the whole of the Sultanate of Sulu dates back several centuries, being coincident with the establishment of Spanish rule in the Philippines -- "for several centuries until this day it / the "Crown of Spain/ has continued to be their sole Lord and Pro- "tector." (Act of Submission of Sulu to Spain, April 19, 1851). Several capitulations between the Sultan of Sulu and Spain existed, particularly those concluded in 1737 which constituted Spain the ally and protector of the Sultan.

The extent of this seigniory and Protectorate is defined in the Capitulations of Protection and Commerce between Spain and the Sultan of Sulu (in Spanish, Jolo), signed September 23, 1836, by the 1st Article of which Spain guaranteed to the Sultan protection and armed aid "throughout the whole extent of the is- "lands which lie within the limits of Spanish right and which "stretch from the western extremity of Mindanao to Borney (Borne "and La Paragua,[X] with exception of Sandacan (Sandacam) and the "other territories tributary to the Sultan on the mainland of "Borney (Borneo)." Article II of those capitulations describes the status of Sulu as one of "friendship and protection which "binds Sulu in sisterhood to the Spanish provinces of the Phil-

[X] Now known as Palawan.

"ippines" and in furtherance of that sisterhood mutual favors of commerce and navigation were stipulated, - while the Sultan engaged to repress acts of piracy of his subjects against the Philippines.

On the same day that the foregoing capitulations were signed, September 23, 1836, Articles of Agreement were also drawn up, fixing the duties to be paid by vessels of Sulu in Manila and Zamboanga, and by Spanish vessels in Sulu. This agreement, which was ratified by the Governor Captain General of the Philippines, January 20, 1837, is not material to the subject matter of the present letter. A translation of its text can be consulted by reference to the printed "hearings before the Committee on the Philippines of the United States Senate", Senate Document 331, 57th Cong., 1st Sess. - Part 3, Page 2131 et seq.

Additional capitulations were signed between Spain and the "Sultan and Dattos of Jolo" August 27, 1850, whereby the Sultan, for himself and his Dattos, engaged, - by Article I, not to grant to any foreign power "any portion of the territory forming part "of the group of islands which lie within the boundaries of Spanish right;" and, by Article II, not to cede any part of his tributary territories without the previous consent of Her Catholic Majesty (Isabel II).

In the following year, the territory of Sulu with its dependencies was annexed to the crown of Spain and joined to the Philippines Archipelago by formal capitulations entitled "Act "of New Submission of the Sultan and Dattos of Sulu to the Sov-

"ereignty of Her Majesty, signed at Jolo April 19, 1851". This annexation, which was declared to have been affected by conquest, was absolute and complete. The first article of this treaty may be quoted in full:

"Article I. The very excellent Sultan of Sulu (Jolo) Mahamad "Pulalon, for himself, his heirs and descendants; the Dattos Ma-"hamad Bullo-Mulok, Daniol-Amil-Bajal, Banda-Jala, Mulok-Cajal, "Amil Barral, Tamangon, Yo-Han, Sana-Ya-Han, Naip, Macancha and "the Serib Mahamad Binsarin, of their spontaneous and free will "declare: that, to the end of making reparation for the outrage "done to the Spanish nation on the first day of January of the "present year, they desire and entreat that the island of Sulu "(Jolo) with all its dependencies be incorporated with the Crown "of Spain which in the last several centuries has been and now "is its sole Lord and Protector; making anew on this day a sol-"emn act of adhesion and submission, recognizing Her Catholic "Majesty Dona Isabel II, Constitutional Queen of all the Spains, "and those who may succeed her in that supreme dignity, as their "Sovereigns, Lords and protectors as they are of right not only "under the treaties concluded in remote epochs and that of one "thousand eight hundred and thirty-six and the additional pro-"visions made by the present Governor of Zamboanga in August last, "but also particularly in virtue of the recent conquest of Sulu "(Jolo) effected on the twenty-eighth of February of the present "year by the Most Excellent Senor D. Antonio de Urbiztondo, Mar-"quis de la Solana, Governor Captain General of the Philippine "Islands".

The remaining articles of this Act of Submission are no less explicit as to the sovereignty of Spain.

By Article II the Sultan and Dattos pledge themselves to maintain in its entirety the territory of Sulu and its dependencies "as part of the archipelago belonging to the Spanish Government".

Article III reads thus:

"The Island of Sulu (Jolo) with all its dependencies "being incorporated with the crown of Spain and its inhabitants "forming part of the great Spanish family which peoples the vast "Philippine Archipelago, the Sultan and Dattos are not competent "to enter into or sign treaties, commercial conventions or alliance of any kind with European Powers, companies or persons, "corporations and Malay Sultans and Chiefs, under penalty of "nullity; they declare null and void each and every treaty entered into with another power is the same be prejudicial to the "ancient and indisputable rights which Spain possesses over the "whole of the Sulu archipelago as a part of the Philippines Archipelago; and they ratify, renew and continue in all their force "and validity any instruments heretofore drawn up which contain "any provision in favor of the Spanish Government from the most "remote times".

Article V stipulates that the war-flag of Spain shall alone be used in the dominions of the Sulu.

"Article VI. The Island of Sulu (Jolo) and its dependencies "being declared an integral part of the Philippine Archipelago "which belongs to Spain, freedom of trade, under the Spanish flag, "is conceded in all the ports dependant upon the Sultanate, with-

"out restriction of any kind, as is done in the Ports of the Na-"tion".

Article VII prohibits the unauthorized construction of fortifications and the traffic in fire arms, because of the Sultan and Dattos of Sulu "having recognized the sovereignty of Spain "over their territory, which sovereignty is now strengthened and "confirmed (robustecida), not alone by the right of conquest but "also by the clemency of the conquerer".

Article VIII provides for issuing Royal Spanish Commissions to the Sultan and Dattos.

By Article IX the Spanish Government guarantees to the Sultan and the inhabitants of Sulu the free practice of their religion and customs.

By Article X the Spanish Government guarantees the succession of the Sultan and the dignitaries of Sulu.

Article XI gives to the vessels and goods of Sulu in Spanish ports the same rights as enjoyed by the ships and goods of the Philippines.

The situation created by the Act of Submission of 1851 was interrupted by an insurrectionary movement in 1878. On its suppression, capitulations of peace and submission to the sovereignty of Spain were concluded by the Sultan and Dattos on July 22, 1878, Article I of that instrument reads:

"We /the Sultan and Dattos/ declare the sovereignty of Spain "in all the Archipelago of Sulu (Jolo) and its dependencies not "to be open to question (indiscutibles), and as the natural con-

"sequence of this fact we constitute ourselves loyal subjects of "His Majesty the King Don Alphonso XIII, and his successors in "power"

No further capitulations between Spain and Sulu are found.

From the foregoing, the absolute sovereignty of Spain over the whole of the Sulu Archipelago and its dependencies appears to have been established, by conquest and capitulation, since 1851, putting Spain in a position to make valid relinquishment of title and claim of title thereto in favor of the United Stat

The territorial limitations of this title and claim of tit are ascertainable from the Protocol entered into by Spain with Great Britain and Germany in 1885.

In 1877 a protocol with those countries was concluded in settlement of difficulties which had grown out of Spanish inte ference with British and German vessels trading with the Sulu Archipelago. It does not contain any definition of the Spani territorial claim which was general as to the whole of Sulu an its dependencies.

Declaration I of this Protocol, signed in the French language at Madrid, March 11, 1877, reads:

"Commerce and direct trade of the vessels and subjects o "Great Britain, Germany and other Powers with the Archipelago "Sulu (Jolo), and in all parts thereof, as well as the right "fishery, without prejudice to the rights of Spain acknowledg "by the present Protocol, are declared to be and shall be ab "lutely free".

The rights so acknowledged were those pertaining to sovereignty and exercisable by Spain in "the pointn occupied by Spain in "the Archipelago of Sulu", with which places free trade and fishing were restricted, while provision was made for their subsequent exercise "in case Spain should effectively occupy other "points in the Archipelago of Sulu" of which occupation notice was to be given. (Declaration III).

The effect of the Protocol of 1877, therefore, was, while asserting and obtaining acknowledgement of sovereign rights on the part of Spain in all the Archipelago of Sulu and its dependencies, to stipulate that Spain would not exercise those rights against the vessels of Great Britain, Germany and other Powers trafficking with places not then or thereafter under the effective administration of Spain. It recognized the right of Spain to establish such administration, at will, anywhere in the Archipelago and its dependencies, and to enforce tariff duties and regulations therein.

The later Protocol (also in the French language) signed at Madrid, March 7, 1885, by the representatives of Spain, Germany and Great Britain, is more explicit on the point of sovereignty , besides containing a precise defination of the territorial claim of Spain in the Sulu Archipelago. Articles I, II, and III, which deal with the matter of sovereignty, read thus:

Article I.

"The Governments of Great Britain and Germany recognise "the sovereignty of Spain over the places effectively occu-"pied, as well as over those places not yet so occupied, of

"the Archipelago of Sulu (Jolo), whereof the boundaries are
"determined in Article II.

Article II.

"The Archipelago of Sulu (Jolo), conformably to the def-
"inition contained in Article I of the Treaty signed the 23
"of September 1836, between the Spanish Government and the
"tan of Sulu (Jolo), comprises all the islands which are fo
"between the western extremity of the Island of Mindanao on
"the one side, and the continent of Borneo and the island c
"Paragua (Palawan) on the other side, with exception of th
"which are indicated in Article III.

"It is understood (entendu) that the Islands of Balaba
"and of Cagayan-Jolo form part of the Archipelago".

Article III.

"The Spanish Government relinquishes as far as regard
"the British Government, all claims of sovereignty over t
"territories of the continent of Borneo which belong, or
"which have belonged in the past to the Sultan of Sulu (
"including therein the neighboring Islands of Balambanga
"Banguey and Malawali, as well as all those islands lyin
"within a Zone of three marine leagues along the coasts,
"and which form part of the territories administered by
"Company styled British North Borneo Company".

Article IV textually recites and confirms the fishing a
trading concessions contained in Declarations I, II, and II
the prior Protocol of March 11, 1877.

This Protocol continued to define the relations of Spai

Great Britain and Germany with respect to the intercourse of foreign vessels with the Sulu group until the date of the signature of the Treaty of Peace between the United States and Spain on December 10, 1898. An amendment, or explanatory construction was agreed upon by the three powers on March 30, 1897, and is printed in the Gaceta de Madrid of March 31st as a formal protocol. Its purport is to admit the right of Spain to prohibit, upon giving notice, all traffic, without distinction of flag, in firearms, munitions and alcoholic liquors throughout the Archipelago of Sulu, including those parts not under the effective administration of Spain. The concluding paragraph of this additional protocol of 1897 reads:

> " With this construction, the aforesaid protocol of "March 7, 1885, remains in force in all its parts, without "change of any kind".

Careful search has failed to show any later protocol on the subject between Spain, Germany and Great Britain, or any act bearing upon the title of Spain to the Sulu Archipelago.

As the result of the examination herein summarized, I have the pleasure to concur in your interpretation of the treaties mentioned in your letter. My views may be thus summed up:

1. The capitulations of 1836 assert and confirm the full seigniory and protectorate of Spain over the Sulu Archipelago and all its tributaries and dependencies, with guarantee of arme aid to the Sultan in all of the"islands which lie within the lim "of Spanish right, and which stretch from the western extremity "of Mindanao to Borney (Borneo) and La Paragua (Palawan)" while withholding that guarantee from the tributary territories of th

Sultan on the mainland of Borneo;

2. This seigniory and protectorate of Spain over Sulu became converted in 1851 by conquest and annexation, into full sovereignty.

3. This sovereignty was reaffirmed by the Act of Submission of the Sultan and Dattos of Sulu in July, 1878, after which time no change occurred in the relation of Sulu to Spain.

4. The Protocol of 1877, between Spain, Great Britain and Germany recognized the sovereignty of Spain over all the Sulu Archipelago, merely stipulating for certain favors to foreign shipping in the places effectively occupied by Spain, and for the exemption of all foreign shipping from Spanish administrative control in all places not effectively so occupied.

5. The Protocol of 1885 between the same Powers (a) expressly recognized the sovereignty of Spain over all parts of the Sulu Archipelago then or thereafter to be effectively occupied by Spain; .(b), defined the limits of the Archipelago as extending from Mindanao to Borneo and Palawan and including Balabac and Cagayan-Jolo; but (c), relinquished, so far as Great Britain was concerned, all claim of sovereignty derived from the past sovereignty of the Sultan of Sulu over territory on the mainland of Borneo, and, in addition, over the islands of Balambangan, Banguey and Malawali, together with a water strip three marine leagues in width along the coasts of the Bornean mainland,--- then under control of the British North Borneo Company.

6. The later Protocol of 1897 between the same Powers confirms the Protocol of 1885, with an amendment recognizing the sovereign capacity of Spain to enforce at will a general

bition of traffic in arms, munitions and alcoholic liquors ughout all parts of the Sulu Archipelago, whether effectively upied by Spain or not.

7. The Spanish Government was, therefore, at the time of the signature of the Treaty of Peace, December 10, 1898 fully seized of sovereignty over the whole of the Sulu Archipelago up to three marine leagues of the mainland coasts of British North Borneo, with exception of the three named islands of Balambangan, Banguey and Malawali, as to which latter Spain had relinquished, so far as Great Britain was concerned, all claim of sovereignty; and was competent to cede, and did in fact cede and relinquish to the United States, by the Treaties of 1898 and 1900 all title and claim of title she then possessed in and to the Sulu Archipelago.

For your convenient reference I append carefully revised translations of the several capitulations, acts and protocols herein cited.

I have the honor to be, Sir,

Your obedient servant,

(Signed) JOHN HAY.

Annex MM 56

LETTER FROM E.H. BARRAUT, RESIDENT OF EAST COAST OF NORTH BORNEO TO LIEUTENANT FRANCIS BOUGHTER, JUNE 24, 1903

Sir.

I beg to acknowledge the receipt of your letter 78 No.80 of today's mail pointing out that the islands of Taguan and Dinawan are lying outsides the boundary of the three maritime leagues from the coast of Borneo and therefore you consider them as under the sovereignty of the United States of America. Your despatch I am forwarding to His Excellency the Governor.

These islands have always been administered by us since our advent here and the Spanish have never claimed or exercised any sovereign rights over them as far as I know.

I have etc.
S/d E.H.Barraut
Resident E.C.

Lieut.Boughter
Commanding U.S.S. "Quiros"
Lahat Dato.

Annex MM 57

TELEGRAM FROM E.H. BARRAUT TO GOVERNOR, JUNE 24, 1903

Copy of Telegram.

Governor,

Jesselton.

American gunboat Quiros here Commander claims sovereignty over Tatagan and Dinawan islands as being more than is nine seamiles from nearest point on Bornean mainland. Informed him we have always administered these islands since our advent. Spanish never claimed or exercised sovereign rights.

Sd. E.H.Barraut.

Annex MM 58

LETTER FROM E.W. BIRCH TO THE CHAIRMAN OF THE BRITISH NORTH BORNEO COMPANY, JUNE 25, 1903

COPY.

GOVERNMENT HOUSE
JESSELTON.
25th June 1903.

Sir,

In continuation of my despatch No.209 of 22nd June regarding the American occupation of certain islands I have the honour to point out that though the Sultan of Sulu's agreement of 22nd January 1878 ceding certain islands refers to those that are within three marine leagues of the coast, his commission dated the same day to Baron Overbeck in its preamble recital omits that definition. It is certain that under that Commission the representative of the Chartered Company has always administered the islands referred to.

I have the honour to be
Sir
Your obedient Servant
S/d E.W.Birch
Governor.

Richard B.Martin Esq.
M.P.
Chairman
British North Borneo Company.
London. E.C.

Enc. ....

Annex MM 59

LETTER FROM THE CHAIRMAN OF THE BRITISH NORTH BORNEO COMPANY TO THE FOREIGN OFFICE, JULY 13, 1903

No. 54.

British North Borneo Company to Foreign Office.—(Received July 14.)

Sir,

15, Leadenhall Street, London, July 13, 1903.

ON the 22nd ultimo I handed you a copy of a telegram which the Court of Directors received from the Governor of North Borneo, reporting that an American man-of-war had paid a visit to certain of our islands situated off the port of Sandakan, and had fixed tablets and flags thereon.

2. Later in the day, Mr. Cowie and I called on you and protested against these proceedings, which the Court of Directors cannot believe could have been authorized by the United States' Government, and which they think must have been due to some misapprehension on the part of the local American authorities.

3. To enable the Secretary of State to clearly understand the position, I beg to be permitted to give a brief account of our occupation of our territories of North Borneo, including the islands in question.

4. In the latter end of 1872 Mr. Cowie hoisted the British flag at Sandakan, and he established the "Labuan Trading Company" there in the beginning of 1873. That Company's station in Sandakan was the first European Settlement on the north-east coast of Borneo.

5. When Commander Buckle visited Sandakan in the "Frolic" nearly three years later, he reported to Admiral Ryder, under date the 28th February, 1875, that the operations of the Labuan Trading Company were considerable. He wrote: "This Company has three steamers engaged in the trade, with several trading stations on the coast, and are doubtless opening up a most valuable and growing trade."

6. Shortly afterwards the attention of certain English merchants in China was drawn to the importance of the trade of the north-east coast of Borneo, and on the 22nd January, 1878, through the influence of Mr. Cowie, the father of the present Sultan of Sulu ceded to Baron de Overbeck and Mr. Alfred Dent all his rights and powers over all the territories and lands which were tributary to him on the mainland of Borneo, commencing from Pandassan River on the north-west coast, and extending along the whole east coast as far as the Sibuco River, and comprising amongst others, the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kinabatangan Muniang, and all the other territories and States to the southward thereof bordering on Darvel Bay, and as far as Sibuco River, with all the islands within 3 marine leagues of the coast.

7. On the same date the Sultan of Sulu issued a commission—copy of which is attached—appointing Baron de Overbeck supreme and independent Ruler over "all the lands on the north and east coast of the island of Borneo, from the Pandassan River on the north-west to the Sibuco River on the east coast, including amongst others the States of Paitan, Sugut, Bangaya, Labuk, Sandakan, Kinabatangan, and Mumiang, and all lands and territories in Darvel Bay as far as the Sibuco River, together with all the islands belonging thereto."

8. A few days after these negotiations were completed formal possession of the territories belonging to North Borneo was taken by Baron de Overbeck and the staff which accompanied him.

BEST COPY AVAILABLE

9. Early in 1881, a Company called the British North Borneo Provisional Association was formed to take over the above-mentioned cession and commission, &c., with all their rights, powers, privileges, and responsibilities. In due course all these were transferred to the British North Borneo Company, which was incorporated by Royal Charter under the Great Seal, the 1st November, 1881.

10. Almost immediately after the formal occupation above referred to, the Illunan pirates, who made a base of the islands fringing the north-east coast, infested Sandakan and other places on the coast, killing and capturing many of the inhabitants, who appealed to our officials for protection. The appeal was, in view of our authority under the Commission, promptly responded to, and with the assistance of Mr. Cowie's steamer "Far East," which was subsidized by the North Borneo Government, and acted as their gun vessel, the pirates were dispersed, and all their abandoned island haunts, which from time immemorial had politically and geographically formed part of North Borneo, were annexed, and have ever since been administered by the North Borneo Government as an integral portion of their territory.

11. And at no time, since the occupation of the islands by us, did the Spanish authorities ever object to our occupation and control of them; nor, so far as the Court are aware, have the American authorities, previous to the action of which we have complained, ever questioned our right of possession.

12. Moreover, until the Sultan of Sulu met Mr. Cowie in Labuan in January 1898, the control of the islands had always been looked upon by the Sultan and his predecessors as part of our duty under the Commission above referred to, in which no mention is made of a 3-league limit.

13. At that meeting the Sultan proposed that, having regard to the large revenue we were deriving from the territories taken over from his father, we should let him look after Taganak and Baguan. These islands, he said, being outside the 3-league limit mentioned in the deed of cession, he had been advised to formally claim them, a thing, he averred, he had no intention of doing; he, however, suggested that Mr. Cowie, as an act of friendship, should cause them to be handed over to him.

14. In reply, Mr. Cowie informed the Sultan that he regretted he could not fall in with the suggestion. He pointed out that the retention of the islands was absolutely necessary to us for the protection of our coast and commerce; and as to the 3-league limit, that neither the three Sultans who had preceded him, nor the local Spanish authorities, had ever suggested that they were not within our jurisdiction.

15. I may here remark that it is only reasonable to suppose the action of the Spanish Government in not interfering with our control of the islands in question was based on the belief that, under Article I of the 1836 Treaty and Article III of the 1885 Protocol, they formed a portion of "the territories of the Continent of Borneo," over which they had renounced all claims of sovereignty; and which, at the date of the Protocol, formed "part of the territories administered by the Company," and which, as a matter of fact, had been in our possession for about seven years previous to that date.

16. The Sultan admitted that what Mr. Cowie had said was correct, and he added that until a few days previously, when he had been advised to claim them, he also had always looked upon the islands as forming a portion of our territory.

17. At the end of the interview Mr. Cowie understood that the Sultan would let the matter drop; however, on his arrival in Singapore he made a claim through the High Commissioner, who communicated it to the Secretary of State, with the result that it was decided to leave the Company's Government to deal direct with the Sultan.

18. In the following year (the 15th January, 1899) the Sultan wrote to Mr. Cowie, and again asked to be allowed to look after Baguan and Taganak.

19. The request was conveyed in the following terms:—

"Datang kita man-yatakan kapada sahabat kita Tuan Cowie, adapun [illegible] pulo Baguan dan Taganak kita suda chakup kapada sahabat kita tempoh Sahabat kita di Labuan, make kita harap dengan beribu ribu harap kapada sahabat kita buli mabulikan permint ahan kita make kita sakarang ini handaklah pliharn itu pulo tiada masuk pajak kaluar deripada perjanjian adanya."

Translation of the above:—

"I desire to say to my friend Mr. Cowie, with reference to the matter of the islands of Baguan and Taganak, of which I spoke when our friend was in Labuan, I sincerely hope our friend will, if possible agree to my request, because I wish now to look after these islands which were not in the Contract, and were outside of the Agreement."

20. Attached is a copy of Mr. Cowie's reply. From this it will be seen that the Court gave the Sultan no hope of the British Government agreeing to relinquish any portion of the territory which had been so long British.

21. I now come to the last portion of my brief history. In compliance with the authority we received from the Secretary of State to deal with the Sultan of Sulu direct, the Court of Directors, to put an end to the Sultan's importunities, authorized the payment to him of a small annual present.

22. But nothing was done in the matter until the Sultan's recent visit to Sandakan, when, as the outcome of certain negotiations, an Agreement—copy of which is attached—in somewhat misleading language was concluded; and the Court suggest that this document may have been the cause of the action of the local American authorities, who, if we are right in our surmise, would naturally have looked upon the Sultan's act as a breach of the Agreement with them, which debars him from ceding any portion of his territory to other Powers without American sanction.

23. Whatever may have been the cause of the action in question, the Court think that the American Government, when placed by the Secretary of State in possession of the foregoing facts, will readily agree to instruct their local officials to remove the flags and tablets they placed on islands which, notwithstanding anything else, have been under British jurisdiction for nearly a quarter of a century.

24. For the information of the Secretary of State, I have attached a map, showing clearly the respective spheres of influence and control.

25. All the islands and territory to the east of the red line have since our occupation of North Borneo been under the suzerainty of Spain and the United States respectively while those to the west of it have been administered by the Government of our State.

I have, &c.

(Signed) RICHARD B. MARTIN, *Chairman.*

Annex MM 60

CABLEGRAM TO THE US SECRETARY OF THE NAVY REGARDING PROCLAMATION OF SOVEREIGNTY OVER CERTAIN ISLANDS OFF THE COAST OF BORNEO, JULY 24, 1903

Copy of Cablegram.

lco r ry Govt

Chefoo 28

Secnav Washington

During June visited Proclaimed sovereignty Lankayan sibaung Great Bakkungan Taganak Lihiman Tatagan Pulo Gais Bohio Dulong Danawan Si Amil Quiros Visiting others detail report follows

Evans.

No. 956-21 1st Endorsement.

Bureau of Navigation, July 24, 1903.

SUBJECT.

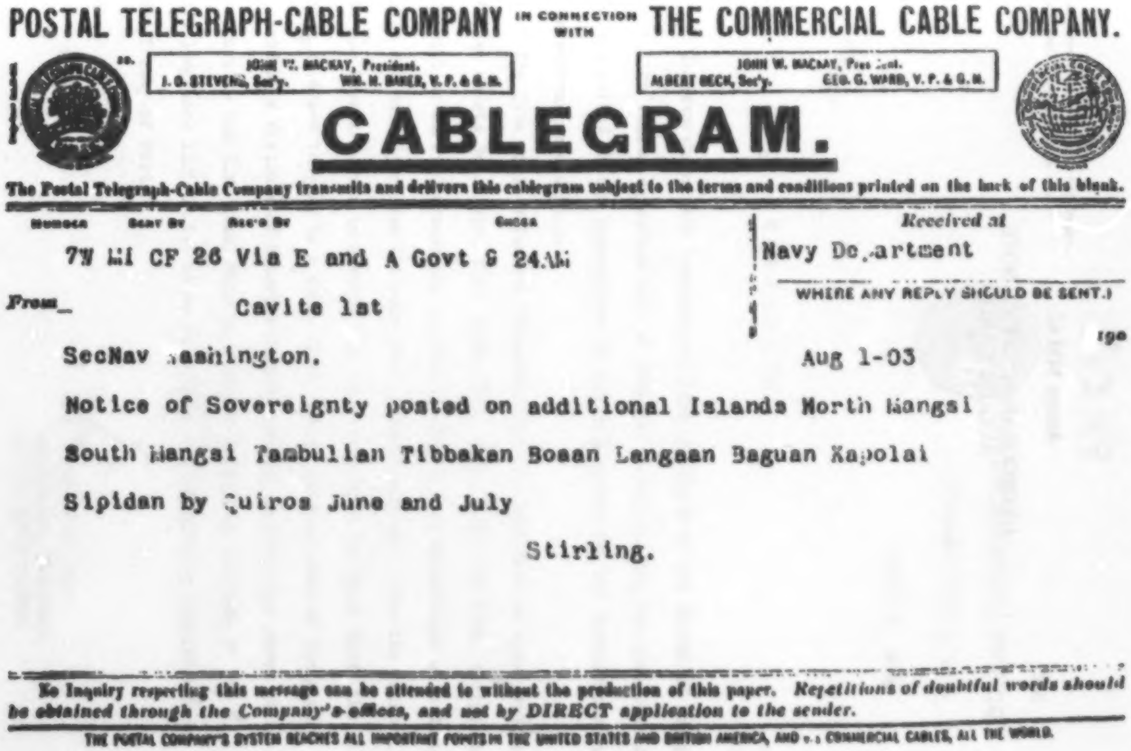
Commander-in-Chief, U.S. Asiatic Fleet: Cablegram reporting islands not included in Treaty of Paris over which the sovereignty of the United States has been declared.

Respectfully referred to the General Board.
By direction of the Chief of Bureau.

R.F. Nicholson.

Annex MM 61

CABLEGRAM FROM STIRLING TO THE US SECRETARY OF THE NAVY REGARDING PROCLAMATION OF SOVEREIGNTY OVER ADDITIONAL ISLANDS, AUGUST 1, 1903



POSTAL TELEGRAPH-CABLE COMPANY IN CONNECTION WITH THE COMMERCIAL CABLE COMPANY.

JOHN W. MACKAY, President.
J. O. STEVENS, Sec'y. WM. H. BAKER, V. P. & G. M.

JOHN W. MACKAY, President.
ALBERT BECK, Sec'y. GEO. G. WARD, V. P. & G. M.

CABLEGRAM.

The Postal Telegraph-Cable Company transmits and delivers this cablegram subject to the terms and conditions printed on the back of this blank.

Number Sent By Rec'd By Check

7W MI CF 26 Via E and A Govt 8 24AM

Received at Navy Department

(WHERE ANY REPLY SHOULD BE SENT.)

From Cavite 1st

190

SecNav Washington. Aug 1-03

Notice of Sovereignty posted on additional Islands North Mangsi South Mangsi Tambulian Tibbakan Boaan Langaan Baguan Kapolai Sipidan by Quiros June and July

Stirling.

No Inquiry respecting this message can be attended to without the production of this paper. *Repetitions of doubtful words should be obtained through the Company's offices, and not by DIRECT application to the sender.*

THE POSTAL COMPANY'S SYSTEM REACHES ALL IMPORTANT POINTS IN THE UNITED STATES AND BRITISH AMERICA, AND VIA COMMERCIAL CABLES, ALL THE WORLD.

Annex MM 62

HYDROGRAPHIC OFFICE NOTE, AUGUST 8, 1903

563.49

ADDRESS HYDROGRAPHIC OFFICE, NAVY DEPARTMENT,
WASHINGTON, D. C., AND REFER TO NO.

HC

HYDROGRAPHIC OFFICE,
WASHINGTON, D. C.,

August 8, 1903.

MEMORANDUM.

In accordance with instructions from the Chief of the Bureau of Equipment, the following method will be observed in delineating the S.W. boundary of the United States possessions in the Philippines for the Commissioner of the General Land Office:—

The line will follow the "boundary line" as laid down on Hydrographic Office charts Nos. 2116, 2117, 2118, 2119, 2121, 2122, and 1709, except that it will be carried around the islands of Banguey and Balambangan at a distance of a marine league from the main land of these islands. From the extremity of the boundary line in Kimanis Bay, laid down on H. O. Chart 2122, the line will be drawn tangent to a curve drawn around the West side of Mangalum Island at a distance of a marine league; thence, leaving that curve at a tangent on its N.W. side, will be drawn to a point in latitude 7° 40' N., and longitude 116° 0' E., where it rejoins the boundary as established by the Treaty of Paris.

Lieutenant, U.S.Navy,
Acting Hydrographer.

563.49

X [See also 16.34 (confidential) - US jurisdiction over Isls off Borneo.]

Philippine Islands -

Limits of United States jurisdiction. (memorandum + chart)

1903 (Hydro. Off.)

Correspondence between State and War Depts relative to boundary line.

1903.

Sulu Archipelago: - Correspondence relative to Sovereignty of US. over -

1903 (State + Navy Depts)

Charts as follows showing boundary lines

1. H.O. Chts. 2117 - Brit. N. Borneo, E. coast
2. " " " 2116 - " " " "
3. " " " 2118 - " " " N. E. "
4. " " " 2119 - " " " northern part
5. " " " 1709 - Balabac St. & channels between Borneo & Palawan.
6. " " " 2121 - Borneo. NW. coast
7. " " " 2122 -

Annex MM 63

REPORT ON THE ISLANDS UNDER THE SOVEREIGNTY OF THE UNITED STATES LYING OFF THE COASTS OF BRITISH NORTH BORNEO RECENTLY VISITED BY THE U.S.S. *QUIROS* BY LIEUTENANT FRANCIS BOUGHTER, NOVEMBER 10, 1903

NAVY DEPARTMENT
OFFICE OF GENERAL BOARD
WASHINGTON

November 10, 1903.

My dear Captain Southerland;

I send you herewith copies of hydrographic notes by Lieutenant Boughter, contained in ~~a~~ three long reports made by him on the cruise of the QUIROS among the southern islands of the Sulu Archipelago. The reports themselves are in the Office - Naval Intellig^ce

According to a letter from the State Department, dated October 23rd last, which has already been referred to the Bureau of Equipment, we shall not be able to mark the boundary line of the Sulu Archipelago upon our charts until a mutual agreement has been arrived at between the United States and British governments.

Very truly yours
Frank Marble

161 34

Reports on the Islands under the Sovereignty of the United States lying off coasts of British North Borneo.

Taganak Id. N.E. coast Borneo.
Bakkungaan Id. N.E. Borneo.
Lihiman Id. " "
Si-ba-ung Id. " "
Lankayan Id. " "
Tetagan Id. " "
Gaia Pulo. " "
Bohi Dulong Id. " "
Pom Pom Pulo. " "
Kapale Id. " "
Timba Timba Id. " "
Guan Pulo, " "
Boheian Id. " "
Danawan Id. " "
Si Amil Id. " "
Sipadan Id. " "

Mangsi Ids. N. coast Borneo
Salingsingan Id. " "
Tambisan Id. (reefs and currents) do
Tibbakan Id. - do
Bo-aan Id. (reefs & currents) - do
Langaan Id. -
Bagaan Id. (with sketch) -
Panguan Id.
Mataking & Mataking Kecil I., N.E. coast Borneo
Kapalai. N.E. coast Borneo
Ligitan.
Mallawallé Channel, N coast Borneo
Sibutu Id., N.E. coast Borneo - anchorage near N.W. adjacent to
Tumindao Id. N.E. coast - Lagoon to W.
Mangsi Great Reef N. Coast Borneo - currents
Merifical Reef, N.E. coast - currents
Bongao, Sulu Ids. - Anchorage

~~[illegible] (Noted)~~

1903 (USS Quiros)

See next page →

Report on the Islands under the sovereignty ofthe United States lying off the coasts of British North Borneo, recently visited by the U.S.S.QUIROS, Lieutenant Francis Boughter, Comd'g.

....

GENERAL FEATURES.- The topographic features of all the Islands visited, with the hydrography of the adjacent waters is substantially as shown on the British Admiralty charts of the vicinity. These are accurate. They are densley wooded, encircled by a coral reef and usually without water. Those,only,with a water supply may be said to be inhabited and even this term cannot be used as implying any sense of permanency as the inhabitants shift frequently to the mainland where all their affiliations lie. Island s having sand beaches are visited from time to time by natives in search of turtle eggs.The nests are found by following the track of the turtle from the beach.

The best landing place is usually found at the point where the chart shows the edge of the encircling reef nearest the high water mark. That this is the place where the natives usually land is shown by the remains of temporary shelter, fires, etc., in the vicinity. At these points I posted the notices which were inscribed upon boards nailed to prominent trees.

I found the currents irregular. In open spaces,the tidal currents set, the flood to the Eastward , the ebb to the Westward. These currents are said to be very materially modified and evenreersed by the prevailing monsoon. The currents around the reefs are confusing but by studying their configurationset in one direction or the other may be forseen.

Such inhabitants as there are are of the class of Bajaus. they engage in trade in turtle eggs, fish,tropang and a little timber. There are few cocoanut trees and the trade of British North Borneo in this respect is small. The natives are fearful of whites and apparently peaceful but are not to be trusted. They have a tendence towards robbery and murder among themselves. They appear to be poor, are superstitious but by no meansstupid.

Island of Taganak. Anchorage was found off the South and of the island about 600 yards from the beach, in 7 fathoms, coral sand bottom. The anchorage space in moderate depths is large enough for a small vessel. Anchorage in 20 fathoms and less may be found in any part of this region, with good holding ground, usually sand or mud. The Southern portion of the island is bordered by a sand beach, the resort of many turtles. The rest is fringed with rocks. There are no inhabitants and no evidences of water although there are said to be wild pigs on the island. I saw nothing to corroborate this. The timber did not seem to be worth much.

Island of Great Bakkungaan. I approached this island from the Southward and Westward, passing between the island of Little Bakkungaan and the reef lying just to the Northward of it. The reefs can be plainly seen with the sun behind one but are hard to distinguish under other conditions, I anchored in about 11 fathoms, sand bottom, about 500 yards from the Southeastern point. The houses are situated in this vicinity. The Panglima lives just to the Eastward of the point and it was there that I posted the notice. I estimate the the population at forty. The houses are substantially constructed for Moro houses and there is good water. The South Western end of the island has been cleared of trees and some cocoa palms have been planted. The timber seems to be better than in the other islands. The Panglima is an old man.

Island of Lihiman. Anchorage was found here off the Southwestern point of the island and to the westward of it, in 14 fathoms, mud bottom, beach distant about 800 yards yards. The island is said to be a mud volcano; the crater lies at the northern end and there is an appearance of a heavy mud flow and as it is not grown over, Isuppose it must be of recent date. The island with this exception is heavily wooded and is not inhabited. There is no water but it is visited from time to time as shown by the ashes of a fire and other marks of occupancy. The Southern end is low and bordered by a sand beach.

Island of Si-ba-ung. I anchored about 600 yards to the Southward and Eastward of this island in 15 fathoms, mud bottom. It is low, of small extent, covered with scrub trees, uninhabited and apparently, never visited. It has no beach. I should say that it is of no value whatever.

Island Of Lankayan. Upon Approaching this island I found the buoy shown on the chart watchingand apparently in its proper place. I approached this island from the Westward,to the Northward of the shoal water shown and anchored about 1000 yards from the Southwestern point of the Island, in 12 faahoms, sand bottom. The vicinity is foul and must be approached with caution. The island is low and heavily wooded;/a sand beach borders it entirely. There were, I should judge, about twenty people on it at the time of my visit, apparently of the class of boat Bajaus as I saw no houses. From the number of trails through the woods, I think the visits of natives must be more frequent here than at other islands. I saw no evidences of water. The natives seen lived in boats of which there were four in sight.

Island of Tatagan, Pulo Gaia and Bohi Dulong. These islands with the adjacent reef form a rough circle, enclosing a lagoon. The island of Tatagan alone is inhabited. Fresh water is found on the island Pulo Gaia at approximately the position shown on the chart. The two islands named are connected at low water, the reef between them drying.There are about forty people living on Tatagan in substantially constructed houses. They fish, collect turtle eggsand raise cocoanuts, rice and tapioca in small quantities. The Panglima stated that there is very little traffic with the Sulus which I do not believe. He stated that there was very little sickness.

I approached these islands through the channel between them and the adjacent islands of Maiga and Salakan and anchored with the South tangent of Tatagan island bearing abput E.N.E. in 14 fathoms,sand bottom. In landing,I took the whale boat through the channel shown, into the lagoon, and got nothing less than six fathems, although it was nearly low water. Inside there was anchorage in 11 to 15 fathoms, sand bottom. The entrance could be made perfectly practicable by the erection of two beacons marking the points of the reefs. Current observations taken from the ship while at anchor showed the tidal current following the line of the channel with a maximum of 1.4 knots ;time about spring tides.

These islands would be of small value. but commencially they are well suited for a temporary military base. The lagoon forms a good harbor and the erection of a few beacons would make the approaches perfectly safe. As the channel bottom is of coral sand, the entrance to the lagoon could be easily dredged to any depth, should subsequent investigation show this to be necessary or desirable. There is an ample supply of good water and enough ground suitable for encampment. The drainage, by erecting barracks or tents on the hill,would be excellent. The climate is good and there is no season of continuous rain such as is found further north. By establishing gardens, many vegetabls and fruits could be obtained for the commissariat.

Islands of Pulo Pom-Pom, Pulo Kapale, Timba Timba, Pulo Puan, and Bohelan.

I did not stop at these islands but passed sufficiently close to ascertain their general characteristics. They present the same features as those already visited, in that they are heavily wooded and bordered by sand beaches. They show no sign of habitation and are said by the chiefs in this vicinity to be uninhabited, but to be frequently visited for turtle eggs.

Islands of Danawan and Si Amil. I anchored off these islands about 800 yards to the North-westward of Si-Amilin Seven fathoms, sand bottom. I ran through the channel into the small bay between Si Amil and Danawan in the whale boat getting nothing less than six fathoms. The bay, however, is of slight value owing to the excessive depth of water in the anchorage ground.

Danawan is low and flat, and contains about thirty inhabitants. There is a well on the western side of the island which supplies and ample amount of good water. The natives are said to be healthy and raise cocoanut palms, rice tapioca in small quantities. They also fish. The Panglima stated thatthere was no traffic with the Sulus which I do not believe. Si Amil is densly wooded and uninhabited. There are many mangoe trees on the island and the fruit is gathered by the inhabitants of Danawan.

I am informed that the island of Sipádan lying to the Southward and Westward of Danawan has always been understood by the natives as being appanage of the latter named island whose inhabitants, by native custom, have enjoyed the monopoly of collecting the turtle eggs deposited there. Recently Bajaus from other localities have been poaching and complaint has been lodged with the resident at Lahat Datu.

Charts used during present cruise.

British Admiralty:1681-1680-1868-1649-1650-287.

Hydrographic Office. 1728-1898.

INFORMATION CONCERNING THE ISLANDS VISITED WITH CURRENT DATA AT THE VARIOUS ANCHORAGES.

ISLAND OF SOUTH MANGSI. The island is thickly wooded bordered by a sand beach and uninhabited. It is visited for turtle eggs. The timber does not appear to be valuable. A trail leads through the bush to a small well in the interior to which the water seeps from the sea. It is brackish and hardly fit to drink.

ISLAND OF NORTH MANGSI. This island is practically the same in character as its neighbor, above described. Natives had visited them both a few days before as shown by fresh footprints. Anchorage with good holding ground can be obtained between the islands. The reefs are distinctly visible on a clear day.

ISLAND OF SALINGSINGAN. This island is long, narrow, covered with bushes and stunted trees and is encircled by a sand beach which terminates at the ends in long spits, drying at low water. There were no signs of occupancy.

ISLAND OF TAMBULIAN. I anchored to the Southward of the Western point of this island in 14 fathoms, sand and mud bottom. The island stands upon a reef and is bordered by a sand beach. The vegetation consists of scrub brush and stunted trees of no value. There is no water and the island is uninhabited but is visited for turtle eggs.

ISLAND OF TIBBAKAN. Anchorage was found to the Southward and Westward of the Western point of this island in 11 fathoms, sand and mud bottom. The island is uninhabited; there is no water. The timber is better than that on Tambulian. I noticed a few firs on the Western point. It is bordered by a sand beach and is visited for turtle eggs.

ISLAND OF BO-AAN. I anchored to the Northward and Westward of this island in 10 1/2 fathoms, mud bottom. IT is, like Lihiman, a mud volcano. The Southern part is bordered by a sand beach, the Northern part being rocky. It is uninhabited but is visited by the natives. I saw the tracks of wild pig and ran across a large lizard. There must, therefore, be water on the island although I could find none. The timber is better than that on most of the islands visited. The crater is situated on the Northern end upon the summit of a hill which is sparsely covered with fir trees. There are no indications of a recent eruption and the aperture is quite small, not more than eight inches in diameter. A small flow of mud is apparently constantly in progress as there was soft mud, still warm, at the opening. Slight subterranean explosions occurred at intervals and the smell of gas was perceptable.

Island of Langaan. I anchored in the passage between this island and Great Bakkungaan 5 fathoms, sand bottom. The island is small, uninhabited, without water and covered with small trees and brush. I cannot recommend the channel between Langata and Great Bakkungaan. The chart shows few soundings and an eight foot patch has been reported. I obtained, in passing through, soundings of 4 1/2 5 and 6 fathoms in places and there are less depths. The passage should not be attempted by any but small vessels and even these should select a time of clear weather and proceed cautiously.

ISLAND OF BAGUAN. This island seems to be charted about a mile too far to the Southward. It is thickly wooded with fair timber. The Southern half is bordered by a sand beach, the resort of many turtles, the Northern coast is rocky. There is a spring of good water near the settlement on the Eastern shore. Here there is one house, about two hundred cocoanut trees and about ten inhabitants. There is no reef shown on the chart. I append a sketch made from observations taken. I anchored to the Southward of the Southern point in 14 fathoms, mud bottom.

ISLAND OF PANGUAN. This is a small island lying to the Westward of Alice reef, wooded, apparently uninhabited and bordered by a sand beach. To the Southward several sand cays show at low water.

ISLANDS OF PULO MATAKING AND MATAKING KETCHIL. Theses are larger than Panguan, but of the same general character.

ISLAND OF KAPALAI. This is a small island standing on the Northern edge of an extensive reef. It is covered with bushes and small trees of no value. It is without water and uninhabited but apparently frequently visited. Anchorage was found to the Northward of it in 16 fathoms, sand bottom. Less water may be obtained closer to the island.

ISLAND OF SIPADAN. This island is densely wooded with tall timber and is the resort of many turtles. There is no water and it is, in consequence, uninhabited. It may be approached close to from the Northwest but there is no anchorage.

ISLAND OF LIGITAN. This island is inaccessible to all except small boats owing to its distance from the edge of the reef upon which it stands. It is uninhabited and covered with scrub bush and a few trees of no value.

MALLAWALLE CHANNEL. I found this channel practicable for vessels of any draft. Until the various reefs and rocks are marked, however, it is not safe except in clear weather. A few beacons would make it so. The North German Llyod Company have forbidden its use by their steamers. These, in going from Kudat to Sandakan, stand to the westward of Balambangan, then through the Balabac Main Channel and to Cagayan Jolo, then to Taganak, a distance of 310 miles.

The distance, using the Mallawalle, is only 130 miles.

ANCHORAGE GROUND NEAR THE REEFS ADJACENT TO SIBUTU.

I steamed across the comparatively shoal water lying to the Westward of Frances Reef. An anchorage can be obtained here in case of necessity, in from 16 to 30 fathoms but the holding ground is not good. It should not be approached at night or in thick weather when landmarks are not visible as the currents are strong and uncertain. I ran into a current of three knots per hour setting to the Southward and Eastward while steaming from a point off Ligitan Island to the reefs. This might very easily set a vessel upon Frances Reef. The anchorage has the advantage of allowing safe egress in case of bad weather.

Much better anchorage ground is found to the Northward between Meridan Reef and a line joining Payne Rock and Balu Balu Island. In clear weather this can be easily reached as the adjacent islands give good cuts for fixing position and the reefs are visible. I found about a fathom more water than the charts show. The holding ground is good, the bottom being gravel and shell with some sand. It is an awkward place to get out of except under faverable conditions. In leaving, I ran between Blake Reef and Maranas Island. The channel is narrow and I do not recommend its use. The better track lies between Blake reef and Bulu Bulu Island or between Bulu Bulu Island and Payne rock. The best anchorage for vessels bound through Alice Channel is to be found on the Bornean side, either in the Ligitan Channel or off the North shore of Darvel Bay. Such anchorages are easy of access and egress at any time and in any weather, the landmarks are good and the shoaling is gradual so the coast can be approached safely using the lead alone. The holding ground is excellent, usuall sand and mud.

THE LAGOON LYING TO THE WESTWARD OF TUMINDAO. This lagoon furnishes a large, safe and protected anchorage. In approach-it a vessel should stand south well clear of the reef until the North tangent of the Island of Sipankot bears East, she should then head East at slow speed and allowing for the current which is very strong, until the small reef in the entrance is made out. Anchorage will be found off this reef in from eight to ten fathoms, sand and shell bottom. In entering, I passed this reef on the port hand about 30 yards from the edge and stood in on a course quite close to and parallel with to edge of the Southern reef. About 350 yards inside the outer reef there is a small shoal with 9 feet over it. I left this on the port hand, then gradually changed course to the Southward into the lagoon. Up to the inner end of the entrance I got 7 to 10 fathoms. At the inner end it shoaled to 3, sand and shell bottom.

A few beacons would make this entrance perfectly practicable for vessels of almost any draft. At present it should not be attempted except on a clear day when the reefs will be distinctly seen. Low tide is the best time. On cloudy days one is apt to be confused by sun spots which have the appearance of shallow water. I did not make any extended investigation of the lagoon, intending to return for the purpose after coaling. I saw enough, however, to convince me of its value. I believe the "Quiros" to be the first American man-of-war to enter it. As I have said elsewhere I do not think it to be to our interest to allow any maps or sketches to be made of the locality. except such as we can control.

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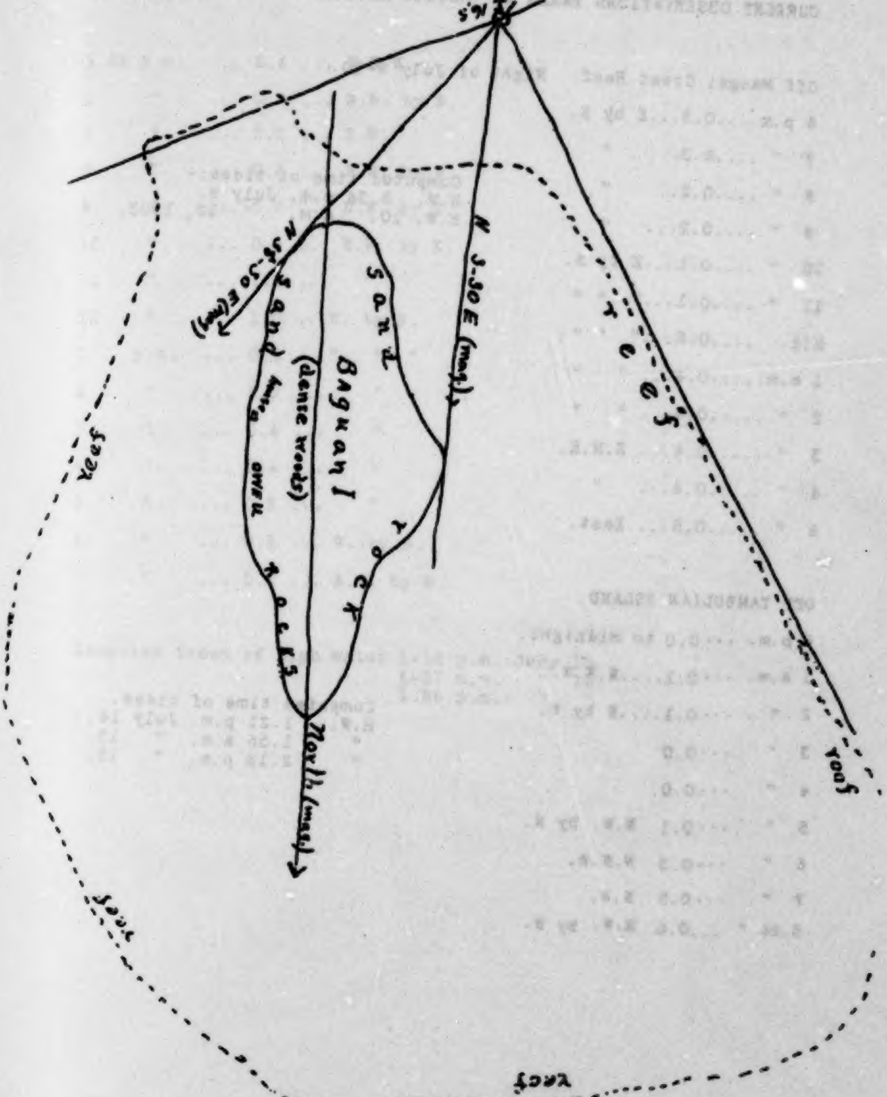
N.S.
N 38-30 E (mag)
N 5-30 E (mag)
North (mag)
Baguan I
(dense woods)
sand
rock
sand
here
over
rocks
reef
reef
reef
reef
reef

CURRENT OBSERVATIONS TAKEN AT VASIOUS ANCHORAGES DURING THE CRUISE.

Off Mangsi Great Reef. Night of July 9-10.

6 p.m....0.3...E by S.
7 " ....0.3... "
8 " ....0.2... "
9 " ....0.2... "
10 " ....0.1...E by N.
11 " ....0.1..." " "
Mid. ....0.2..." " "
1 a.m.....0.4... " "
2 " .....0.4... " "
3 " .....0.4... E.N.E.
4 " .....0.6... "
5 " .....0.5... East.

Computed time of tides:-
H.W. 9.36 p.m. July 9.
H.W. 10. a.m. " 10, 1903.

OFF TAMBULIAN ISLAND.

6 p.m. ···0.0 to midnight.
1 a.m. ···0.1....N.N.W.
2 " . ···0.1....N by W.
3 " ···0.0
4 " ···0.0
5 " ···0.1 N.W. by N.
6 " ···0.3 W.N.W.
7 " ···0.5 N.W.
8.26 " ...0.6 N.W. by N.

Computed time of tides.
H.W. 1.21 p.m. July 14.
" 1.56 a.m. " 15.
" 2.13 p.m. " 15.

Off Bosaan Island. July 15-16.

5.25 p.m. ... 0.4 ... N.N.W.
6 " ... 0.2 ... N.W. by N.
7 " ... 0.2 ... N.W.
8 " ... 0.2 ... N.W. by W.
9 " ... 0.4 ... N.W. by N.
10 " ... 0.6 ... N.W. by N.
11 " ... 1.0 ... "
12 " ... 1.0 ...W. by N.
1 p.m. ... 0.6 ..." " "
2 " ... 0.5 ... "
3 " ... 0.4 ... "
4 " ... 0.4 ... "
5 " ... 0.5 ... "
6 " ... 0.1 ... W. by N.
7 " ... 0.2 ... N.W. by W.

Computed times of high water 1-12 p.m. July 15.
1-37 a.m. " 16.
1.56 p.m. " "

ANCHORAGE OFF MERIDAN REEF.

6 p.m.....0.6.......n. by E.
7 " ....0.8 "
8 " ....0.8 "
9 " ....0.5 "
10 " ....0.8 "
11 " ....0.8 "
12 " ....0.8 "
1 a.m....0.7.......N.E. by N.
2 " ....0.6....... E. by N.
3 " ....0.5....... N. by E.
4 " ....0.4....... "
5 " ....0.4....... "
6 " ....0.6....... W.N.W.
7 " ....0.6....... "
8 " ....0.6....... "

Computed times of high water.

4-16 p.m. July 22.
4-41 a.m. " 23.

Extracts from

REPORT OF A CRUISE AMONG THE AMERICAN ISLANDS LYING OFF THE COAST OF BRITISH NORTH BORNEO, BY THE U.S.S.QUIROS,LIEUTENANT FRANCIS BOUGHTER, U.S.NAVY,COMMANDING,No. 70. (supplementary to and in continuation of Nos. 61 and63.)

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No.70.

UNITED STATES ASIATIC FLEET

Phil'ppine Squadron

U.S.S Quiros,

Isabela de Basilan, P.I.,

July 27, 1903.

Sir:

x x x x x x x x x x x x x

3. I arrived at South Mangsi Island on the after noon of July 9 and anchored to the Eastward of MAngsi Great Reef in 15 fathoms, mud bottom, at 5.30. This is a good anchorage in the South West monsoon, and as the outlines of the reef are distinctly visible under ordinary conditions, there is no difficulty in picking up a suitable berth. OBservations showed a current of from 0.1 to 0.6knots setting to the Eastward. On the morning of July 10, I got underway and picked up a berth to the Eastward of the Mangsi Islands.

x x x x x x x x x x x x

8. As stated above, I left Kudat on the morning of July 14 and stood through the Mallawalle channel as far as the

Island of Tambulian, where I anchored at 5 p.m. I visited this Island on the morning of July 15 and also the Island of Tibbakan, posting the usual notice on each. I then proceeded South through the channel, passing Sandy Island on the way. This Island, or more correctly, this cay was entirely submerged, only the beacon showing above water. At 5.10 p.m. I anchored off the Island of Bo-aan for the night. The Straggler, lying to the Eastward of Mallawalle, is a small island covered with low underbrush and a few trees, lying out of the usual routes. I shall visit it at some future date should occasion arise. Bu-ang is a sand cay with no vegetation. Such cays are said to shift in position on the reefs. It was not visited.

x x x x x x x x x x x x x x

15. x x x x July 24, I got underway at 5.30 a.m . and proceeded to the entrance of the lagoon lying to the westward of the Islands of Omapaui, Sipankot and Tumindao. Here I anchored at 8.30 a.m. and after making some soundings, took the ship through the entrance and into the lagoon, anchoring inside at noon. At 1 p.m. I got underway and stood out of the lagoon for Bongao where I arrived at 6.45 p.m.x x x x x x

16. x x x x. It is a large and secure anchorage, thoroughly protected and perfectly practicable for ships of almost any draft. x x x. It commands the Alice and Sibutu passages, there is sufficient anchorage ground for any number of vessels and there is water on the adjacent islands. For these reasons it seems to me adviseable that the place should be closed to vessels and that any charts of the locality which may

be published should be regarded as confidential. On charts intended for general circulation, the reef should be shown without a break.

x x x x x x x x x x x x x

19. For purposes of navigation about the Sibutus, the charts furnished are on much too small a scale. A chart of the sea lying between 4 and 5 - 15 North Latitude and 118-30 and 120 East Longitudeshould be published. This would include the usual landmarks used in approaching the reefs and passing through the channels, viz: Mount Bagahac, Pulo Gaia, Si Amil, Sibutu and Bongao peaks. These are the best long distance marks and are usually the only ones visible. They are therefore very important. Such a chart would include all of the American islands inthe vicinity.

While on the subject: of charts, I beg to add that I consid-it very desirable that two charts be published covering the Sulu Archipelago instead of the one now supplied. They should have the following limits: (1) Lat. N. from 4-40 to 6-30: Long. E. from 119-40 to 121-15. and (2) from 5-35 to 7-00 Lat. N. and 120-45 to 122-15 Long. E. These charts would show all the landmarks used in navigating these waters. The data at present available , while not complete, is sufficient for navigating where care is used. A complete survey of the locality will no doubt some day be made but this will depend upon the completion of an elaborate system of triangulation and astronomical work which has not yet been begun.

In the mean time we should have better charts.

x x x x x x x x x x x x x

Very respectfully,

(Sg d.) Francis Boughter

Lieutenant, U.S.Navy,

Commanding.

The Commander-in-Chief,

United States Asiatic Fleet,

(Copy sent to the Commander of the Philippine Squadron.)

Annex MM 64

HMS *MACASSER* REPORT, NOVEMBER 26, 1903

The following is a translation of a letter dated 26 November 1903, with annexed report, by the Commander, survey vessel HMS *Macasser*, to the Dutch Naval Commander at Batavia, filed in General State Archives (ARA), The Hague, 4.HYDRO31, inv. 3, no. 108.

On board of HMS surveyor vessel *Macasser*.
Surabaya, 26 November 1903.

No 1209
1 Appendix

To the Commander of the Naval Forces
at Batavia

I have the honour to report to Your Excellency the following concerning the actions carried out in response to your Letter no. 707 dated 18 January 1902.

Although a glance on the English Admiralty Chart no. 1681 could lead to the impression that a large number of points on which bearings could be taken would be available on the coast and on the islands lying in front of it, in practice most of these points, when viewed from a certain distance offshore, become very unclear against the background of the landscape and cannot be used for taking bearings.

Also those points located further inland and at a higher elevation are not suitable; partly they are covered by cloud and, further, so little recognizable in shape that only one of the higher mountains could be included in the survey.

As reported in the Annex, the eastern coast of the island of Silungan can be astronomically located from the Erzherzog reef, and a further seven points could be reasonably measured.

From the island Mabul the highest hillock of the island of Sipangao could be astronomically measured as well as the above-mentioned points. But apart from this there was no convenient point available to the East since the clouds made mountains invisible or hardly distinguishable, while the lower extremities are under water. Sailing further outside, after only 5 miles westward, off the islands of Danawan and Si Amil, it became clear to me that the points already measured became totally invisible, either because of the distance or because they were getting lost from sight into the mainland. At the same time, from the visible islands off Bum Bum and even from that island itself only the extremities at the coast were visible and they were not sufficiently recognizable.

The ship was by then about 12 nautical miles from the coast. Because the island of Ligitan is situated approximately 24 nautical miles offshore, there was no way of carrying out any measurement from that island. For that reason I could not pursue my intention of ascertaining a third point on the island of Danawan. This island is also located too far from the coast to permit a reliable measurement.

I then chose as the third point the island of Gusungan which is situated approximately between the two first measuring points and through which an astronomical measurement of a full set of six well-recognizable points could be achieved, two of which were measured from two directions.

The points from which the measurements took place lead, according to astronomical position findings, to different results in longitude and latitude from the English Admiralty Chart, namely:

Mabul	weight	6	11" South	48" West
Gusungan	id.	7	12" South	35" West
Erzherzog reef	id.	8	20" South	30" West

gathered from:

Macasser - Toli Toli - St Lucia Bay.

By way of controlling an accurate location, checking of the chronometers has been done on Mabul, according to the longitude of the astronomical determination of the positions. At a suitable occasion on the island of Gusungan I subsequently conducted a position finding in the universal instrument and after having adjusted the chronometers the following final result was found:

Gusungan: N. lat. 4° 18' 55"
id. E. long. 118° 32' 42" determined from Berouw
id. E. long. 118° 32' 21" determined from Mabul

while using 117° 29' 18" E. long. for the Long. of Berouw.

From this it follows that the longitude determined from Berouw and the one determined from Mabul differ, according to the astronomical position-findings, once again by 21".

The astronomical soundings with circular measurements correspond with the English Admiralty Chart. If one assumes only an average discrepancy with the astronomically etermined points, a linking-up could allways be made upon the basis of these above-mentioned measurements.

The Commander
(signed H. van Straaten
For a true copy
The Secretary of the Department of the Navy in
the Netherlands Indies

(signed Immink)

Min. of Navy no. 13461

Bearings taken by HMS *Macassar* on British North Borneo, 21-27 October 1903.

1. From the Erzherzorg reef (4° 14' 15" N.lat. and 118° 24'3.0" E. long. according to Eng. Adm. Chart no. 1681; 4° 14'25" N.lat. and 118°23'32.5" E. long. according to astronomical position-finding) the following has been measured:

Astron. direction	Eastside island Silungan	N41° 4' 20"
Mount Pöck,	Eastside island Silungan	51° 56'50"
Top 1200 ft. on Delconté point	id. id.	29° 44'50"
Eastside island Silungan	- top 935 ft on Tanjong Tutop	10° 38'10"
id. id. id.	- highest hillock Sipangao	17° 55'10"
id. id. id.	- highest hillock Nusatonga	18° 51'40"
id. id. id.	- highest hillock Manampili	20° 13'10"

2. From the island Gusungan (4° 19'0" N.lat. and 118° 33'0" E.long. according to English Adm Chart no. 1681; 4° 18'48" N.lat. and 11° 32'25.3" E.long.
according to astron. position-finding) has been measured:

Astron. direction hillock on island Sipadan		S.22° 38' E.
Hillock Sipadan	- Mount Pöck (by aid post)	141° 19'30"
id. id.	- top 1200 ft on Delconté point id.	126° 55'0"
id. id.	- hillock Silungan id.	113° 48'20"
id. id.	- hillock 935 ft on Tanjong Tutop id.	189° 42'30"
id. id.	- highest hillock Sipangao	invisible
highest top Nusatonga	- hillock Sipadan	113° 5'0"
id. id.	- Manampili id. id.	118° 8'0"
Eastside Mabul	- id. id. id.	29° 10'0"
Westside id.	- id. id. id.	27° 28'0"

3. From the north-western point of the island of Mabul (4° 14'54" N.lat. and 118° 38'3" E.long. according to Eng. Adm. Chart no. 1681: 4° 14'43" N.lat. and 118° 39'15.3' E.long. according

to astron. position-finding) the following has been measured:

Astron. sounding highest hillock on island Sipangao	**N.11° 38.1' W.**
Mount Pöck - top Sipangao	**46° 15'0"**
Top 1200 ft. at Delconté point - id. id.	**43° 12'0"**
Hillock Silungan - id. id.	**46° 49'0"**
Top 935 ft. on Tanjong Tutop - id. id.	**28° 28'0"**
Highest top Nusstonga - id. id.	**8° 44'0"**
Highest top Manampilii - id. id.	**22° 31'0"**

4. Position-finding Gusungan

N.lat. : 4° 8'55"

E.long. : 118° 32'42" (conducted from Berouw: 117° 29'18" E.)

E.long. : 118° 32'21" (conducted from Mabul, according to astronomical position-findings).

Annex MM 65

LETTER FROM JOHN HAY TO THE BRITISH AMBASSADOR, DECEMBER 10, 1904

ARRANGEMENT BY AN EXCHANGE OF NOTES CONCERNING THE ADMINISTRATION AND LEASE OF CERTAIN SMALL ISLANDS ON THE NORTH BORNEAN COAST BY THE BRITISH NORTH BORNEO COMPANY.

File No. 2180.

The Secretary of State to the British Ambassador.

No. 146.]

DEPARTMENT OF STATE,
Washington, December 10, 1904.

EXCELLENCY: Referring to your inquiry, in the course of our conversation of yesterday morning, touching the question of the status of certain islands near the coast of British North Borneo, I take pleasure in fulfilling my promise to examine the matter and advise you further.

Since the receipt of Mr. Raike's note of September 7, 1903, I am advised that no steps have been taken toward making good the title of the United States to those islands, neither has any report been made by the American naval or military authorities in the Philippines which would throw additional light on the merits of that title.

Under the convention of November 7, 1900, supplementary to the treaty of peace between the United States and Spain, the latter relinquished in favor of the United States all title and claim of title to all islands belonging to the Philippine Archipelago not specifically included in the metes and bounds described in the treaty of peace and particularly to the islands of Cagayan Sulu and Sibutu, both of which lie outside the mentioned boundaries.

The title of Spain to the Sulu Archipelago, of which Cagayan and Subutu formed part, rests on historical facts and repeated act of submission of the Sulu chiefs to the Crown of Spain, and the territorial limits of Spanish jurisdiction in that quarter are stated in general terms in the protocols signed between Great Britain, Germany, and Spain in 1877, 1885, and 1897, from which it appears that Spain relinquished in favor of Great Britain all claim of sovereignty over the territories of the mainland of Borneo which then belonged or had belonged in the past to the Sultan of Sulu, including therein the neighboring islands of Balambangan, Banguey, and Malawali, "as well as all those islands lying within a zone of 3 marine leagues along the coast, and which form part of the territories administered by the company styled British North Borneo Company," while as to the rest of the islands pertaining to her under the Suluan capitulations and submissions Spain reserved and was admitted to have sovereignty whether they were effectively occupied by Spain or not.

I am not aware that at any time between the conclusion of the protocols of 1877, 1885, and 1897, and the conveyance by Spain to the United States in 1900, of all title and claim of title in that quarter, any effective tracing of the 3-league water boundary along the North

Bornean coasts was made or attempted by Great Britain and Spain. Both countries appear to have rested content with the treaty definition and with the Spanish reservation of sovereignty outside of the line so defined. It is one of the common cases where a conventional description of a boundary line has not been carried into effect by a physical demarcation, and where the coterminus sovereignties may at any time give effect thereto by actually laying down the line as a proper proceeding under their existing treaty rights.

The geographical features of the Bornean coast and the adjacent islands are, however, such as would seem to preclude an exact definition of the treaty line between its land and water territories and those of the Sulu groups, without positive knowledge upon which the two Governments could base an intelligent agreement. A line traced 3 marine leagues seaward from the windings of an irregular coast is necessarily somewhat arbitrary and, all other things being equal, considerations of mutual convenience may be taken into account, as for instance, when an island other than those enumerated in the existing protocols should be cut in two by the 3-league line. Again, the protocols are silent as to the points of the North Bornean coast where the 3-league line begins and ends. As to these matters I see no reason why they should interfere with the settlement of the whole question by a mutually satisfactory agreement.

As a step toward that desirable end the Government of the United States would be willing to come to an understanding with His Majesty's Government whereby a joint examination of the North Bornean neighborhood shall be made by two experts, one on behalf of each Government, under instructions to agree if possible upon a tentative line which shall conveniently and fairly represent the intention of the parties to the protocol of 1885, making report thereof to their respective Governments with statement of any points upon which they may not be able to agree. Upon receipt of these reports, the two Governments will be in a position to determine upon a definitive settlement of the matter in such way as shall be found appropriate.

If this proposal should be acceptable to His Majesty's Government your reply to that effect will be regarded as perfecting the agreement by exchange of notes.

I have, etc.,

JOHN HAY.

Annex MM 66

LETTER FROM H.M. DURAND TO THE US SECRETARY OF STATE, SEPTEMBER 29, 1905

File No. 2160.

The British Ambassador to the Secretary of State.

No. 198.] British Embassy,
Lenox, Mass., September 29, 1905.

Sir: I communicated to the Marquis of Lansdowne the note dated December 10, 1904, which I had the honor to receive from Mr. Hay, regarding certain islands near the coast of British North Borneo over which the British North Borneo Company were desirous of continuing to exercise control.

At the conclusion of this note Mr. Hay stated that—

> the Government of the United States would be willing to come to an understanding with His Majesty's Government whereby a joint examination of the North Bornean neighborhood shall be made by two experts, one on behalf of each Government, under instructions to agree, if possible, upon a tentative line which shall conveniently and fairly represent the intention of the parties to the protocol of 1885, making report thereof to their respective Governments, with statements of any points upon which they may not be able to agree. The two Governments will then be in a position to determine upon a definite settlement of the matter in such a way as shall be found appropriate.

I am now instructed by the Marquis of Lansdowne to say that His Majesty's Government fully appreciate the friendly spirit in which the proposal made in Mr. Hay's note is put forward. At the same time His Majesty's Government desire me to state that they do not consider that there is at present any necessity for carrying out a demarcation between the American possessions and British North Borneo, as there is no intention on their part to question the title of the United States to the islands aforementioned. His Majesty's Government desired only to ascertain whether the United States Government would be willing to forego their right to these islands, out of consideration for the fact that the North Borneo Company had during many years carried on the administration of them under the apparent belief that the islands formed part of the company's territory, and as the company attached importance to being permitted to retain control over them. It is thought that the possession of the islands may be of little importance to the United States, and, in view of the aforegoing explanations, I am instructed to inquire whether the United States Government would feel disposed to make the concession suggested.

I have, etc., H. M. Durand.

Annex MM 67

DURAND MEMORANDUM FROM THE BRITISH AMBASSADOR IN WASHINGTON TO THE UNITED STATES SECRETARY OF STATE, JUNE 23, 1906

File No. 2160

THE DURAND MEMORANDUM OF JUNE 23, 1906

The British Ambassador to the Secretary of State.

[Memorandum]

BRITISH EMBASSY,
Washington, June 23, 1906.

The Secretary of State's semiofficial note of January 12 in regard to the control of certain islands in North Borneo was duly forwarded by His Majesty's embassy to Sir Edward Grey, who has now replied, giving the views of the British North Borneo Company on the four points raised in that note.

In regard to the first point, the company deprecate having to submit a chart showing the line dividing North Borneo from American territory. They point out that to prepare such a chart would necessitate the dispatch of a joint delimitation commission, which would involve considerable expense. His Majesty's embassy is, however, authorised to communicate to the State Department the inclosed map as showing the limits within which the company desire to carry on the administration.

2. The company would like to be left undisturbed in the administration of the islands without any detailed agreement, the United States Government simply waiving in favor of the company their right to administer, which it is believed they have no special desire to exercise; but if this is not possible the company would prefer to continue the administration on leases renewable say every twenty-five years, paying the annual rent of $150 as suggested before.

3. The company suggest that in case of denunciation the United States Government should agree to recognize titles and concessions granted in the islands by the company and should pay the company for improvements.

4. In the event of the United States Government agreeing to refrain from administering the islands, the company will, as a matter of course, agree to the exemption of the United States Government from any claim or allegation of responsibility arising out of acts done in or from any islands within the proposed line of demarcation.

They do not suppose that it was the intention of the Department of State to disclaim responsibility for the consequences of acts done in or from American islands under the direct control of the United States administration.

UNOFFICIAL TRANSLATION

THE HAGUE

7 April 1914

Mr. Minister,

Not having neglected to communicate to the Minister of the Colonies of the contents of Your Excellency's letter of 20 March last, concerning the works of triangulation of the Royal Marine vessel "Merlin" done in 1910 in the border/frontier region between the Netherlands and British territories on the western coast of Borneo, I have just been informed of the following:

The Ministry of the Colonies had not been informed by the Government of the Dutch Indies of the fact that the wooden beacons/buoys placed in 1899 by the Netherlands Royal Marine Vessel "Flores" on the eastern coast of Borneo and the western coast of Sebatik had been replaced by the wooden tripods, such that this Department does not know if those tripods had been erected exactly at the same place where the wooden beacons/buoys were found. However, this point is not of great importance, seeing that the boundary was not indicated by those beacons/buoys placed in 1899, but by the granite columns erected in 1901 under the supervision of the commandants of the vessel of the Netherlands Royal Marine "Macasser" and that of the Royal British Marine "Waterwitch". The two governments have declared their agreement that these columns marks in a correct way the line of the boundary between the territories of the Netherlands and Britain in Borneo, as indicated in the Article V of the London Convention 20 June 1891, it being understood that the said line crosses the eastern coast of Borneo and the east and west coasts of Sebatik, as indicated in the correspondence of 1902 between Lord Lansdowne and the Baron Gericke de Herwijnen.

The wooden beacons/buoys, erected by the vessel "Flores" in 1899 were not removed in 1901 although they were found at the edge of the mangroves since they had been useful to find the columns which were in swampy terrain. They had been placed further towards the interior and by consequence were not visible from far. It might therefore be possible that by that circumstance the existence of those abovementioned granite pillars could have escaped the attention of the persons engaged in the triangulations in 1910 aboard the ship "Merlin".

I allow myself to add that it is evident from a report of the "assistant-resident" of Koetei and the northern-eastern coast of Borneo of 21 March 1912 that at that period the granite pillars which it concerns, were found to be in good condition.

In praying Your Excellency to kindly communicate that which precedes to his Government, I avail etc.

For the Minister
The Secretary-General

(sgd) HAHHDIA

Monsieur le Ministre,

N'ayant pas manqué de communiquer au Ministre des Colonies le contenu de l'office de Votre Excellence du 20 mars dernier, concernant les travaux de triangulation du batiment de la Marine Royale "Merlin", faits en 1910 dans la region frontière entre les territoires néerlandais et britannique sur la cote occidentale de Bornéo, je viens d'être informé de ce qui suit:

Le Ministère des Colonies n'a pas été informé par le Gouvernement des Indes néerlandaises du fait que les balises en bois, placées en 1899 par le batiment de la Marine Royale néerlandaise "Flores" sur la cote orientale de Bornéo et la cote occidentale de Sibetik avaient été remplacées par des trépieds en bois, de sorte que ce Département ignore si ces trépieds ont été érigés exactement au même place où se trouvaient les balises en bois. Toutefois, ce point n'est pas de grande importance, vu que la frontière n'est pas indiquée par ces balises placées en 1899, mais par les colonnes de granit érigées en 1901 sous la surveillance des commandants du batiment de la Marine Royale néerlandaise "Macassar" et de celui de la Marine Royale britannique "Waterwitch". Les deux Gouvernements se

SON EXCELLENCE

SIR A. JOHNSTONE.

sont déclarés d'accord que ces colonnes démarquent d'une façon correcte la ligne de frontière entre les territoires néerlandais et britannique de Bornéo, indiquée dans l'article V de la Convention de Londres du 20 juin 1891, vu que cette ligne traverse la côte orientale de Bornéo et les côtes orientale et occidentale de Sibetik, comme il appert de la correspondance de 1902 entre Lord Lansdowne et le Baron Gericke de Herwijnen.

Les balises en bois, érigées par le bâtiment "Flores" en 1899, ne furent pas enlevées en 1901 parce que se trouvant au bord des mangroves elles étaient utiles à retrouver les colonnes qui, par égard au terrain marécageux, avaient dû être placées plus à l'intérieur et par conséquent ne sont pas visibles du large. Il serait donc possible que par cette circonstance l'existence des piliers de granit susmentionnés ait échappé à l'attention des personnes occupées des triangulations en 1910 à bord du bateau "Merlin".

Je me permets d'ajouter qu'il appert d'un rapport de "l'assistent-resident" de Koetei et de la côte septentrionale - orientale de Bornéo du 21 mars 1912 qu'à cette époque les piliers en granit, dont il s'agit, se trouvaient en bon état.

En priant Votre Excellence de bien vouloir communiquer ce qui précède à Son Gouvernement, je saisis etc.,

Pour le Ministre
Le Secrétaire-Général,
(sd) HANNEMA.

Annex MM 69

EXTRACT FROM MEMORANDUM OF TRANSFER, RESIDENT H.J. GRIJZEN OF THE SOUTHERN AND EASTERN DIVISION OF BORNEO, SEPTEMBER 3, 1917

Extract from Memorandum of Transfer, Resident H.J. Grijzen of the Southern and Eastern Division of Borneo, 3 September 1917.
Text in General State Archives of the Netherlands, ARA, The Hague, microfiche 272-1.

'Until recently our administrative involvement [in Bulungan] did not reach further than to the coastal area and the lower course of the Kajan river. The river basin of the Sembakoeng and the Sesajap as well as the middle course of the Kajan and the whole river basin of her tributary Bahau, thus in other words the Tidoeng lands and the areas of Poedjoengan and Lepo Maoet, remained virtually excluded from the exercise of authority.'

Extract in Dutch:

`Tot voor kort heeft onze bestuursbemoeienis [in Boeloengan] zich niet verder uitgestrekt dan tot de kuststreek en de beneden-loop van de Kajan-river. Het stroomgebied van de Sembakoeng en de Sesajap zomede de middenloop van de Kajan en het gehele stroomgebied van haar zijtak de Bahau, dus met andere woorden de Tidoengse landen en de Poedjoengan en Lepo Muoet streken bleven vrijwel van bestuursbemoeienis uitgesloten.'

Annex MM 70

J. PAULUS (ED.), *ENCYCLOPAEDIA VAN NEDERLANDS-INDIË*, VOL. 1, 'S-GRAVENHAGE/LEIDEN : NIJHOFF/BRILL, 1917, 2ND ED., P. 356

ENCYCLOPÆDIE
VAN
NEDERLANDSCH-INDIË

TWEEDE DRUK

MET MEDEWERKING VAN VERSCHILLENDE GELEERDEN
AMBTENAREN EN OFFICIEREN

SAMENGESTELD DOOR

Mr. Dr. J. PAULUS
OUD N. I. HOOFDAMBTENAAR

EERSTE DEEL
A – G

's-GRAVENHAGE
MARTINUS NIJHOFF

LEIDEN
N.V. v/h. E. J. BRILL

1917

volking. Nederlandsch Borneo heeft, naar de jongste opgaven (die echter voor een groot deel bij benadering zijn vastgesteld), ruim 1.233.000 inwoners (1905); voor Britsch Borneo vindt men slechts sterk afwijkende getallen, die varieeren tusschen de 600.000 en 700.000. Men mag dus aannemen, dat de totale bevolking van het eiland in geen geval de 2.000.000 te boven gaat.

Wij deelen onze behandeling op de volgende wijze in:

I. Aard en oorsprong van onze kennis.
II. Klimaat, planten- en dierenwereld, geologie.
III. Bergstelsel.
IV. Rivieren.
V. Kust.
VI. Economische toestand.
  A. Voortbrenging.
  B. Handel.
  C. Verkeer.
VII. Politieke toestand.
VIII. Mohammedaansche en Europeesche Cultuurinvloed.
IX. Britsch Borneo.

In II vereenigen wij een drietal onderwerpen, die elders in dit werk zelfstandig behandeld worden, maar waarvan wij toch enkele hoofdzaken hier dienen aan te stippen. III, IV en V vormen de eigenlijke landbeschrijving; de menschelijke nederzettingen staan op Borneo in zoo nauw verband met de hydrografie, dat wij in onze behandeling beide niet hebben willen scheiden. In IX geven wij, volledigheidshalve, een korte beschrijving van Britsch Borneo; wij beschouwen deze echter geheel als aanhangsel, de beschrijving van Nederlandsch Borneo is het doel van dit artikel en waar wij dus zonder nadere toevoeging spreken over den economischen of politieken toestand van Borneo, over het verkeerswezen van het eiland, over vreemden cultuurinvloed enz., daar hebben wij steeds het Nederlandsch gebied op 't oog — al spreekt het natuurlijk vanzelf, dat veel, wat daarvoor geldt, ook voor Britsch Borneo opgaat.

I. *Aard en oorsprong van onze kennis.*

Onze kennis van Borneo, schoon in de laatste tientallen van jaren sterk vermeerderd, is nog verre van volmaakt. Bij de samenstelling van een algemeen overzicht heeft men voortdurend te kampen met de onvolledigheid en vooral met de ongelijkmatigheid der gegevens. Terwijl bijv. de Westerafdeeling geheel topografisch is opgenomen en ons beeld van haar orografischen bouw sinds die opneming en Molengraaff's reizen als in hoofdtrekken vaststaand mag worden beschouwd, bezitten wij van de Zuider- en Oosterafdeeling slechts schetskaarten, samengesteld uit materiaal van voor verschillende streken zeer uiteenloopende hoedanigheid. Zelfs de rivieren worden hier gedeeltelijk nog weergegeven volgens topografische schetsen met geschatte afstanden, terwijl men aangaande het bergstelsel vaak beter weet hoe het niet dan hoe het wel daarmee gesteld is, zoodat men er op de kaarten slechts zeer in het ruwe de hoofdtrekken van kan weergeven. En niet alleen voor de kartografie, ook voor de eigenlijke landbeschrijving geldt deze ongelijkmatigheid. Terwijl het grootste deel van de Westerafdeeling en van het Barito-gebied reeds vroeg systematisch beschreven werden, vindt men in de Noordoostelijke stroomgebieden streken, die ons eerst uit enkele verkenningstochten bekend zijn, terwijl het met sommige gedeelten in het Zuidwesten niet veel beter gesteld is. Onder zulke omstandigheden heeft natuurlijk een algemeen geografisch overzicht voor de onderscheiden deelen van het behandelde gebied een zeer verschillende waarde.

De ontdekking van Borneo door de Europeanen valt in het begin der 16e eeuw; onzeker is het of de schepen van Magellaan de eerste zijn geweest, die het eiland aanliepen, dan wel of reeds enkele jaren te voren de Portugeezen hier voet aan wal hebben gezet. Olivier van Noort, die in 1600 Broenei aandeed, was de eerste Nederlander, die het eiland bezocht. De Compagnie vestigde weldra aan de Westkust een factorij (te Soekadana 1603); van politieken invloed was voor haar echter pas tegen het einde der 18e eeuw sprake en bijna twee eeuwen lang kenden de Nederlanders van Borneo niet veel meer dan de kusten. De eerste groote reizen in het binnenland werden gedaan door F. J. Hartmann, 1790—1792, in opdracht van de Compagnie, welker opperheerschappij in 1787 door Bandjermasin was erkend en die nu door dezen reiziger naar de waarde van haar nieuwe gebied een onderzoek deed instellen. Op zijn eerste reis bezocht hij de talrijke plaatsen in het stroomgebied van de Martapoera en Negara, op zijn tweede bevoer hij de Barito tot voorbij Moeara Tewe en onderzocht ook verschillende zijrivieren, op zijn derde reis eindelijk werd hij nabij de Montalat vermoord. De eigenlijke ontdekking van de binnenlanden begint pas na het herstel van het Nederlandsch gezag en hangt ten nauwste samen met de pogingen, om die op papier bestaande autoriteit tot werkelijkheid te maken. In 1816 kwam een Nederlandsch commissaris te Bandjermasin aan; 1818 begaf hij zich naar Pontianak; 1823—'25 werd te Bandjermasin in den verwarden staat van zaken orde gebracht; in denzelfden tijd vallen ook de onderhandelingen met Kota Waringin en de landschappen der Oostkust. Het uitbreken van den Java-oorlog en het stelselmatig beperken van de bestuursbemoeiingen met de bezittingen buiten Java en Sumatra brachten deze politieke activiteit tot stilstand, maar aan het onderzoek van de binnenlanden had zij den stoot gegeven. Zoowel bestuursambtenaren als leden der in 1820 gestichte „Natuurkundige Commissie" voerden voor de regeering belangrijke reizen uit. Tobias, regeeringscommissaris voor de Westkust, bereisde vooral de Chineesche districten. Andere bestuursambtenaren waren L. C. Hartmann, die in 1823 de Kapoeas opvoer tot Djongkong en het merengebied ontdekte; Van den Dungen Gronovius, die Landak bezocht en G. Müller, de voornaamste van alle, die in 1824 aan de Kapoeas de monding der Sibau bereikte en nog in hetzelfde jaar bij zijn groote reis op de Mahakam de waterscheiding overschreed met de bedoeling Borneo van Oost naar West dwars door te trekken, waarbij hij het moeilijkste deel van zijn tocht reeds achter den rug had, toen hij aan de Boengan werd vermoord. Henrici, militair commandant in Zuid-Borneo, bereikte in 1833 aan de Barito de monding der Baboeat en voerde verschillende andere reizen uit. S. Müller, Horner en Korthals deden enkele jaren later, als leden der Natuurkundige Commissie, geologische, zoölogische en botanische onderzoekingstochten in het Barito-gebied. Evenzeer als lid dier commissie bereisde Schwaner van 1844—47 de Barito (van welke uit hij ook tot de Mahakam doordrong), de Kapoeas Moeroeng en de Kahajan en bereikte van de Katingan uit de Melawi en het Kapoeasgebied. Von Gaffron vergezelde Schwaner op zijn eerste tochten en reisde vervolgens zelfstandig in de Zuidwestelijke stroomgebieden; een jaar voor Schwaner trok hij de waterscheiding met de Kapoeas

Annex MM 71

HMS *LYNX* REPORT, NOVEMBER 25, 1921

ANNNEX

Extract from a letter of the chief commander of HMS *Lynx* dated 25 November 1921.

On 25 November at 8.00 a.m. the plane was prepared for the proposed tour in the direction of the Sulu islands. But the aircraft could not take off from the water. It was lifted on board and got new packing and spark plugs, after which it was lowered into the water again. But it still refused to start from the water, so that again it was lifted on board and subjected to a thorough inspection. In the afternoon another attempt was later made to fly, yet it again failed and the plane was again hoisted on board. HMS *Lynx* then weighed anchor at 6.00 p.m. and steamed out. After passing the lightship the lights were doused and we set sail for the islet of Sipadan. We did not meet any proas on the night of 25-26 November and arrived at 6.00 a.m. at Sipadan. Sipadan lies approximately 20 miles from Si Amil. An armed sloop was sent to land for information, but returned in vain. There were some turtle fishermen on the island, who had seen no badjau fleet, and who could not give any information. We then set course for the South estuary of the S. Simengaris. On the morning of 26 November the aircraft was used once again after a thorough check up, and the old spark plugs were installed again after a thorough cleaning, as the new ones were completely useless. The plane was let down to water at 10.00 a.m. and it took off easily.

A tour was made via Sipadan to the 3-mile border of Si Amil. The observer of the plane reported upon his return that the fleet of Raja Panglima Djuwang was still at Si Amil while most of them were fishing. HMS *Lynx* anchored at 3.00 a.m. at the port of Tarakan, having seen no suspected proas that day. On Sunday 27 November we stayed at the port of Tarakan and had an opportunity to relax.

On Sunday 27 November at 6.30 p.m. I received your cipher cablegram of 25 November at 9.40 a.m. which reads after decoding:
"With reference to your cablegram, English authorities soon warned. Remain to observe fleet. As soon as they leave British territorial waters seize them and send the Rajah's proa to Tarakan for investigation of the incident, for which Lynx is around. Herewith suspect all eventualities 38903 (not discovered in code) 010 (is silted)".

On 30 November at 8.00 a.m. we lifted anchor and steamed out of Tarakan to the lightship, and thence North to the Northern mouth of the S. Simengaris between East Nunukan and

Sibetik, to return, anchoring at 6.00 p.m. 3 nautical miles South of Macassar bank. Throughout the day we did not see any suspicious proas; and at 5.00 p.m. a Chinese trade proa stopped, who reported that he came from Tawao informing us that he had not seen any badjau proas. The plane could not be lowered on the water because of the situation at sea. Weighing anchor at 11.30 p.m. and steaming to Sipadan when no proas were seen, and thence on 1 December to the 3 mile limit on the East side of Si Amil and saw 40 proas fishing on the reef, which by then proved that they had formed a definite settlement on Si Amil. Steaming out of Si Amil again south and from Ligitan to South Sebetik.

We lowered the plane on 1 December at 9.00 a.m. and made a tour to Ligitan heading south of Sibetik and thence south again to the island of Abus, where approximately 5 miles away the badjau fleet of 15 prows had been seen, and went around the North East. The plane landed nearby and requested a Chinese prow owner if he had been troubled by the badjau fleet, which he denied. It may thus be concluded that the badjau fleet had gone home. The plane then flew on to Ahoes to East of Mandoel [Mabul] and from there directly to the island of Sipadan and the nearby Si Amil, where the 40 proas were still fishing. The morning at 11.00 a.m. we received a radiocablegram through Tarakan from the Resident of Bandjermasin reading: "Your signal yesterday, if pirates outside our area of jurisdiction and no threat to the settlements are to be expected, no further measures from Lynx needed."

Naval lieutenant 1st class
(sgd)

For a similar copy
The Secretary to the Marine Department
in the Netherlands Indies
(sgd) K. Zeeven

For a similar copy
The Government Secretary
C. Versluis.

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* A translation of the original Dutch letter was annexed to the Indonesian Memorandum of 7 September 1994, as attachment 18. The text presented here has been verified against the original Dutch text.

25 November op den V.M. 6 uur werd het vliegtuig klaar gemaakt voor den voorgenomen tocht in de richting der Soeloe-eilanden. Het vliegtuig wilde echter niet uit het water stygen, het werd aan boord geheschen nieuwe pakkingen en bougies aan gebracht en weder te water gelaten, het vliegtuig weigerde wederom uit het water te stygen, werd weer aan boord genomen en grondig nagezien. Op de A.M. werd nogmaals geprobeerd om te vliegen, het mocht echter niet gelukken en werd het vliegtuig weder aan boord geheschen. Hms. „Lynx" heeft daarna 6 uur P.V. het anker gelicht en is naar buiten gestoomd. Na het passeeren van het lichtschip werden de lichten gedoofd en koers gezet naar het eilandje Sipadan. Ontmoetten in den nacht van 25 op 26 November geen prauwen en kwamen 6 uur D.W. by Sipadan aan. Sipadan ligt ± 20 mijl van Si Amil. Een gewapende sloep naar den wal gezonden ter informatie kwam onverrichter zake terug. Er waren eenige schildpadvisschers op het eiland, die niets gezien hadden van een badjau-vloot en geen inlichtingen konden geven. Daarna werd koers gezet naar de Zuidelijke monding van de S. Simengaris. Het vliegtuig werd op de V.M. van 26 November weder geheel nagezien en de oude bougies, na schoon gemaakt te zyn, weder ingezet; de nieuwe bougies waren totaal onbruikbaar geworden. Ten 10 uur V.M. werd het vliegtuig te water gelaten en vloog gemakkelijk op.

Een tocht werd gemaakt via Sipadan naar de 3 mijlsgrens van Si Amil. De waarnemer van het vliegtuig rapporteerde na terugkomst dat de badjau vloot van radja Panglima Djoewang nog steeds aanwezig was te Si Amil en een groot deel er van visschende was. Hms. „Lynx" ankerde 3 uur A.M. ter reede Tarakan; geen verdachte prauwen werden dien dag gezien. Zondag 27 November werd ter reede Tarakan vertoefd en gelegenheid gegeven om te passagieren. Zondag 27 November 's avonds 6 u 30 kreeg ik Uw cyfer telegram van 25 November 9 u 40 A.M., hetwelk vertaald luidde: „met referte aan Uw D.T. telegram, Engelsche autoriteiten worden spoedig gewaarschuwd. Blijven vloot waarnemen. Zoodra aangetroffen buiten Engelsche territoriale wateren aanhouden prauw radja opbrengen Tarakan ter onderzoek incident, waarvoor Lynx aanwezig. Hierby verdacht zijn op alle gebeurlijkheden 30903 (niet op te zoeken in code) 01023 (is aangeslibd)".

30 November 8 uur V.M.

werd het anker gelicht en van Tarakan gestoomd naar het lichtschip, van daar om de Noord en de Noordelijke monding der S. Simengaris tusschen Oost Noenoekan en Sibetik binnen geloopen, daarna terug en ten 6 uur N.M. geankerd 3 zeemijl bezuiden Makassarbank. Zagen den geheelen dag geen verdachte prauwen; hielden 5 uur N.M. een Chineesche handelsprauw aan afkomstig van Tawao deze deelde mede geen badjauprauwen te hebben ontmoet. Het vliegtuig kon heden niet te water gelaten worden wegens toestand zee. Lichten 11 u 30 N.M. het anker, stoomden naar Sipadan alwaar geen prauwen gezien werden, vandaar op de Z.W. van 1 December naar de 3 mijlsgrens aan de Oostzyde van Si Amil, zagen de ± 40 prauwen op het rif visscherie, waaruit wel zoo langzamerhand blijkt, dat zy een vaste nederzetting vormen op Si Amil. Stoomden van Si Amil weder om de Zuid en van Legitan naar Zuid Sebetik. Lieten 1 December 9 uur V.M. het vliegtuig te water en werd een tocht gemaakt vanaf Legitan naar Zuid Sibetik, vandaar om de Zuid naar eiland Ahoes, waarvan op ± 5 mijl de bewuste badjauvloot van 15 prauwen werd gezien, koersende om de N.O. Het vliegtuig is in de nabyheid neergestreken en tevens een Chineesche handelsprauw aangepraaid en gevraagd of zy last ondervonden had van badjauvloot, hetgeen ontkennend beantwoord werd. Aangenomen kan dus worden, dat badjauvloot huiswaarts is getogen. Vliegtuig is daarna doorgevlogen van Ahoes tot be Oosten Mandoel en van daar rechtstreeks naar eiland Sipadan en nabyheid Si Amil, waar badjauvloot van 40 prauwen nog steeds visscherie. Ontving hedenmorgen 11 uur een D.T. telegram via Tarakan van Resident Bandjermasin luidende: „Uw sein gisteren, wanneer badjaus buiten ons rechtsgebied en geen bedreigingen onder nederzettingen te verwachten zyn, verdere maatregelen Lynx niet meer noodig.”

Annex MM 72

MEMORANDUM REGARDING ISLANDS OFF THE NORTH-EAST AND EAST COASTS OF NORTH BORNEO BY W.J. WORTH, JULY 14, 1922

Memorandum regarding islands off the North-East
and East Coasts of North Borneo.

On the attached map are shown (a) in ink the line agreed upon with the United States Government in 1907 as separating the islands under our administration from those under American administration, and (b) in red pencil the approximate path of the 'three marine leagues' limit.

With regard to Line (b), no exact delimitation has yet been attempted. In the absence of any precise determination of this line it is impossible to say exactly ~~which~~ how many of the islands are under American sovereignty and ~~which~~ how many are under North Borneo sovereignty.

There are probably innumerable small islands lying between the two lines indicated on the map. The "dozen or so" I mentioned to the President over the telephone this morning were those visited (probably the more important islands) by the "Quiros", an American gunboat, in 1903.

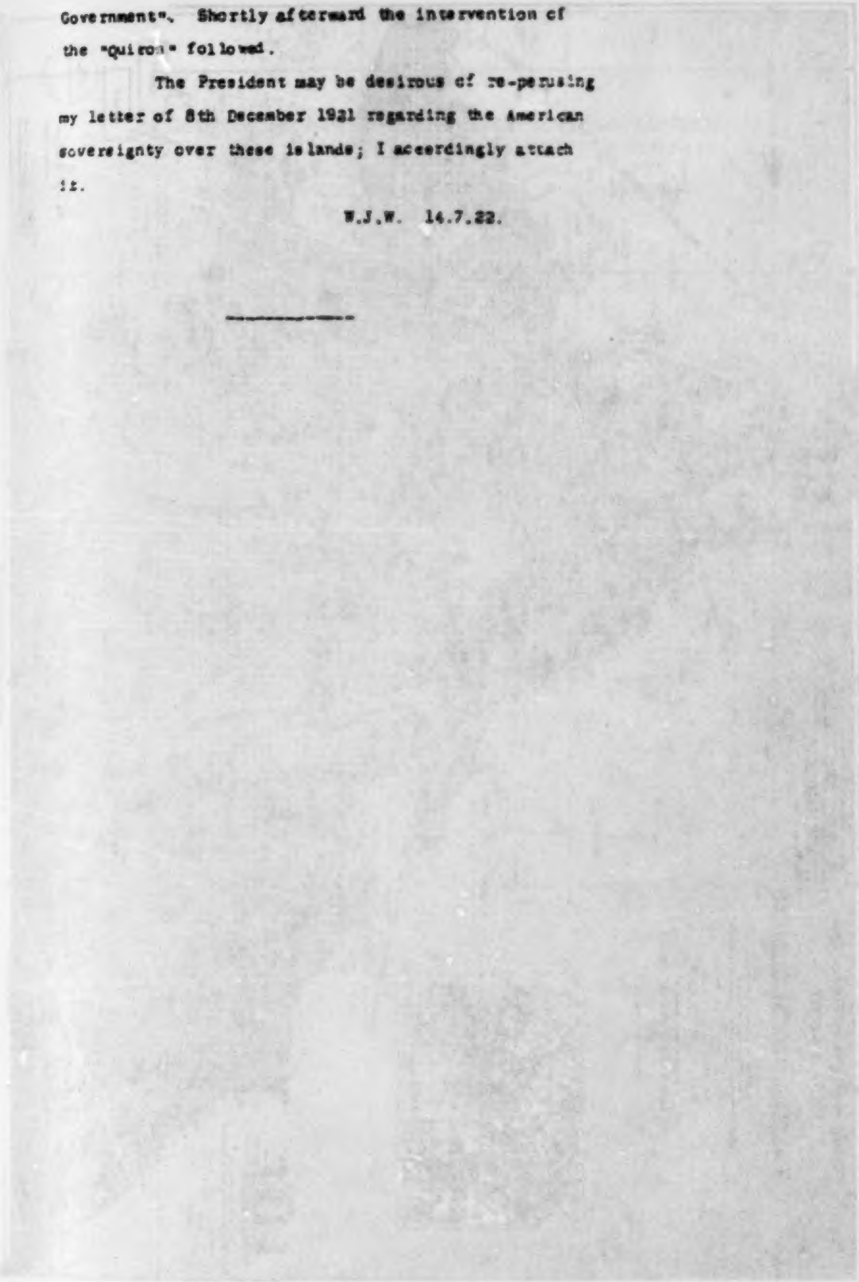
This vessel was under the command of Lieut. Boughter, who hoisted the American flag on a number of islands and erected tablets recording the visit of his ship. The islands thus visited comprised the following:

Taganac
Baguan
Lihiman
Sibaung
Lankayan
Gt.Bakungan
Little "
Tatagan
Dinawan
Gaya Island
Silingan
Langavan
Boaan
Gulisan

On the map I have underlined all the above islands except Tatagan which I cannot find on our maps (It is probably somewhere off Simporna). It will be seen that for the most part they are grouped in the approaches to Sandakan Bay. In one or two cases, e.g. Silingan and Gulisan, it is very doubtful whether they are within our territorial waters or not.

We have very little information regarding the area, population, etc. of the above islands. Taganac is 18 miles from Sandakan. It and the neighbouring island of Dasuan were visited by Governor Birch in 1901, who reported that "for Government purposes the islands are of little use to North Borneo". Apparently coconuts have been grown on these islands, which are also the resort of collectors of turtles' eggs. They are practically uninhabited. They formed the subject of negotiations with the Sultan of Sulu in 1898/1903, who maintained that as they were outside the 9-mile limit they were not within the Chartered Company's jurisdiction.

As regards Dinawan, Omadal, and Gaya Island, in 1902 the Sultan of Sulu sent two of his chiefs to collect taxes from the people there. Governor Birch had the two chiefs arrested. The Sultan complained to the Philippine authorities ~~[illegible]~~ that "the concession of the British North Borneo Company includes all the islands within 3 maritime leagues of the Borneo coast. Dinawan, Pulugia (Gaya Island) and, I believe, Omadal also, are outside of this line, and not under the jurisdiction of the British North Borneo



Government". Shortly afterward the intervention of the "Quiron" followed.

The President may be desirous of re-perusing my letter of 8th December 1921 regarding the American sovereignty over these islands; I accordingly attach it.

W.J.W. 14.7.22.

Annex MM 73

EXTRACT FROM A LETTER FROM RESIDENT VAN KEMPEN OF THE SOUTHERN AND EASTERN DIVISION OF BORNEO TO THE GOVERNOR-GENERAL OF THE NETHERLANDS INDIES, BANDJERMASIN, NOVEMBER 24, 1923

Extract from a letter from Resident Van Kempen of the Southern and Eastern Division of Borneo to the Governor-General of the Netherlands Indies, Bandjermasin, 24 November 1923.
Text in General State Archives of the Netherlands, ARA, The Hague, *Min. of Col., Openbaar Verbaal*, 1901-1952, 2.10.36.06, inv. no. 2637, no. 11.

...In this particular area there are no islands; only the open sea...

...Some 12 years ago the Batavian [Petroleum Company], as I meanwhile came to know, had conducted geological explorations on Si Batik and, if I am not mistaken, in the British part of it.

From the fact that the above-mentioned Company has ever since ignored the exploration while at other places in the neighbourhood it continues to explore and exploit busily and incessantly, I take it that at the time one had found no indications of rich mineral deposits...

...The island itself is nearly uninhabited and the fisherman's trade, conducted along the shores, is not in the hands of the indigenous population of Boeloengan. When fishing takes place, it is performed by the well-known Badjaus from the Solo archipelago.'

Original text in Dutch:
...te bedoelder plaatse liggen geen eilanden; slechts de open zee...

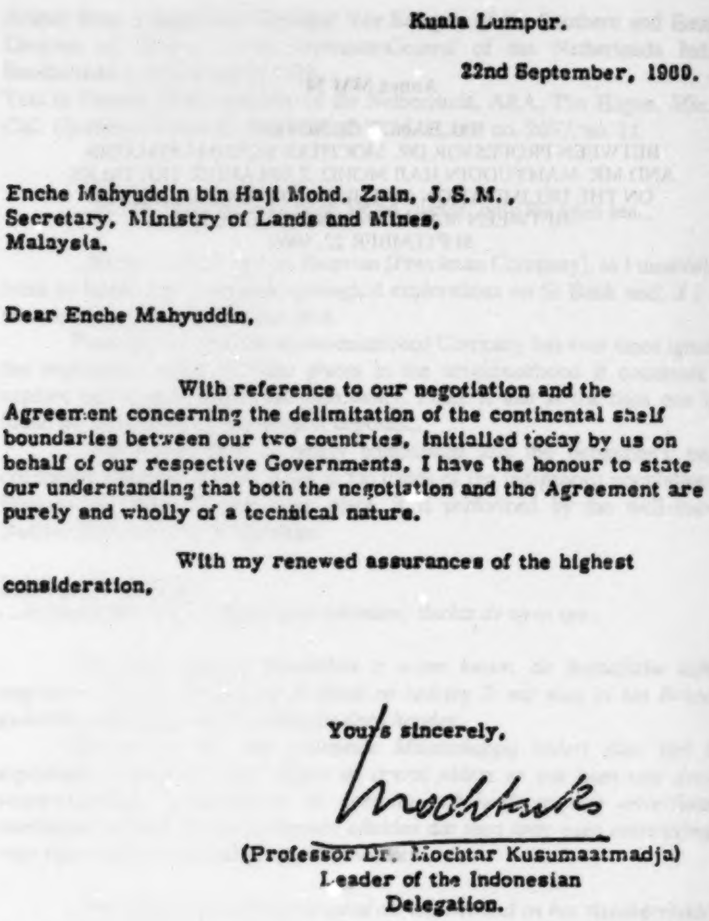
...Nu heeft naar ik intusschen te weten kwam, de Bataafsche echter ongeveer 12 jaren geleden op Si Batik en bedrieg ik mij niet, in het Britsche gedeelte geologische onderzoekingen doen houden.

Uit het feit nu, dat genoemde Maatschappij sedert dien tijd dat exploiratie links heeft laten liggen en overal elders er om heen met groote voortvarendheid geëxploireerd en geëxploiteerd heeft en nog onverflauwd werkzaam is, meen ik wel te kunnen afleiden dat men toen geen aanwijzingen voor rijke minerale afzettingen heeft gevonden...

...Het eiland zelf toch is zoo goed als onbewoond en het visschersbedrijf, dat er langs de kusten wordt uitgeoefend, is niet in de handen der inheemsche bevolking van Boeloengan. Wanneer er gevischt wordt, dan geschiedt dat door de bekende Badjau's van uit den Solorarchipel.'

Annex MM 74

EXCHANGE OF NOTES BETWEEN PROFESSOR DR. MOCHTAR KUSUMAATMADJA AND MR. MAHYUDDIN HAJI MOHD. ZAIN AFTER THE TALKS ON THE DELIMITATION OF THE CONTINENTAL SHELVES BETWEEN MALAYSIA AND INDONESIA, SEPTEMBER 22, 1969



Kuala Lumpur.

22nd September, 1969.

Enche Mahyuddin bin Haji Mohd. Zain, J. S. M.,
Secretary, Ministry of Lands and Mines,
Malaysia.

Dear Enche Mahyuddin,

With reference to our negotiation and the Agreement concerning the delimitation of the continental shelf boundaries between our two countries, initialled today by us on behalf of our respective Governments, I have the honour to state our understanding that both the negotiation and the Agreement are purely and wholly of a technical nature.

With my renewed assurances of the highest consideration,

Yours sincerely,

Mochtar

(Professor Dr. Mochtar Kusumaatmadja)
Leader of the Indonesian
Delegation.

Kuala Lumpur.

22nd September, 196

Professor Dr. Mochtar Kusumaatmadja,
Leader of the Indonesian Delegation to the
Malaysian/Indonesian Negotiation on the
Continental Shelf Boundaries.

Dear Professor,

I have the honour to acknowledge receipt of your letter dated 22nd September, 1969 which reads as follows:-

> **Kuala Lumpur.**
> **22nd September, 1969.**
>
> **Enche Mahyuddin bin Haji Mohd. Zain, J. S. M.,**
> **Secretary, Ministry of Lands and Mines,**
> **Malaysia.**
>
> **Dear Enche Mahyuddin,**
>
> **With reference to our negotiation and the Agreement concerning the delimitation of the continental shelf boundaries between our two countries, initialled today by us on behalf of our respective Governments, I have the honour to state our understanding that both the negotiation and the Agreement are purely and wholly of a technical nature.**
>
> **With my renewed assurances of the highest consideration,**
>
> **Yours sincerely,**
>
> **(Professor Dr. Mochtar Kusumaatmadja)**
> **Leader of the Indonesian Delegation.**

I confirm that your letter and this reply constitute an understanding between us that the negotiation and the Agreement are purely and wholly of a technical nature.

With renewed assurances of my highest consideration,

Yours sincerely,

Mahyuddin

(Mahyuddin bin Haji Mohd. Zain)
Secretary, Ministry of Lands and Mines,
Malaysia.

Annex MM 75

JOINT REPORT OF DISCUSSIONS BETWEEN DATO' SERI ANWAR IBRAHIM AND MOERDIONO, JUNE 21, 1996

JOINT REPORT OF DISCUSSIONS BETWEEN DATO' SERI ANWAR IBRAHIM, DEPUTY PRIME MINISTER OF MALAYSIA, AND MR. MOERDIONO, MINISTER/STATE SECRETARY OF THE REPUBLIC OF INDONESIA, ON THE ISSUE OF SOVEREIGNTY OVER PULAU LIGITAN AND SIPADAN AND THEIR RECOMMENDATIONS.

INTRODUCTION

1. The issue of sovereignty over Pulau Ligitan and Pulau Sipadan was first discussed between the delegations of Malaysia and Indonesia during the Talks on the Delimitation of the Continental Shelves between Malaysia and the Republic of Indonesia in September 1969. In the efforts to find a solution, the Foreign Ministers and senior officials from Malaysia and Indonesia continued the discussions at various opportunities, including at their annual Joint Commission Meetings from 1991 onward and in three informal sessions of the Joint Working Group on Pulau Sipadan and Ligitan held between July 1992 and September 1994 where the two countries presented their written submissions. Prime Minister Dr. Mahathir Mohamad and President Soeharto also discussed the issue during their talks. The discussions however were unable to resolve the issue in question.

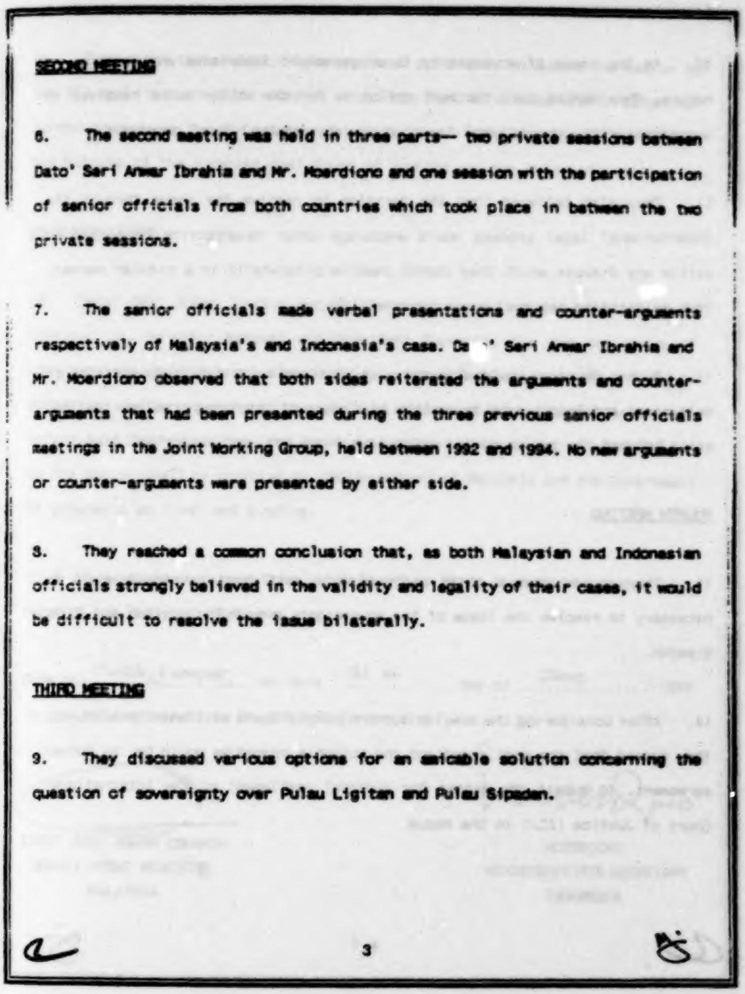
2. In light of this, Prime Minister Dr. Mahathir Mohamad and President Soeharto then decided in September 1994 that the discussion on the issue should be continued by their personal representatives. For this purpose, Prime Minister Dr. Mahathir Mohamad appointed Dato' Seri Anwar Ibrahim, Deputy Prime Minister while President Soeharto appointed Mr. Moerdiono, Minister/State Secretary.

3. Four meetings were held between Dato' Seri Anwar Ibrahim and Mr. Moerdiono to discuss the issue. The first meeting was held on 17 July 1995 in Jakarta, the second on 22 September 1995 in Kuala Lumpur, the third on 26 September 1995 in Jakarta and the fourth on 21 June 1996 in Kuala Lumpur. The summary record of discussions between Dato' Seri Anwar Ibrahim and Mr. Moerdiono is as follows:

FIRST MEETING

4. During the first meeting Dato' Seri Anwar Ibrahim and Mr. Moerdiono reviewed the results of the discussions on the issue so far, including the minutes of the meetings that had taken place in the Joint Working Group at the level of senior officials. They noted the legal arguments presented by the senior officials of both countries and the inability to resolve the issue at such a level.

5. Dato' Seri Anwar Ibrahim and Mr. Moerdiono were of the opinion that even if such bilateral discussions by the senior officials in the Joint Working Group were to be resumed the issue could not be resolved. They therefore agreed that they should continue discussing and strive to find a solution on the matter in the spirit of good neighbourliness.



SECOND MEETING

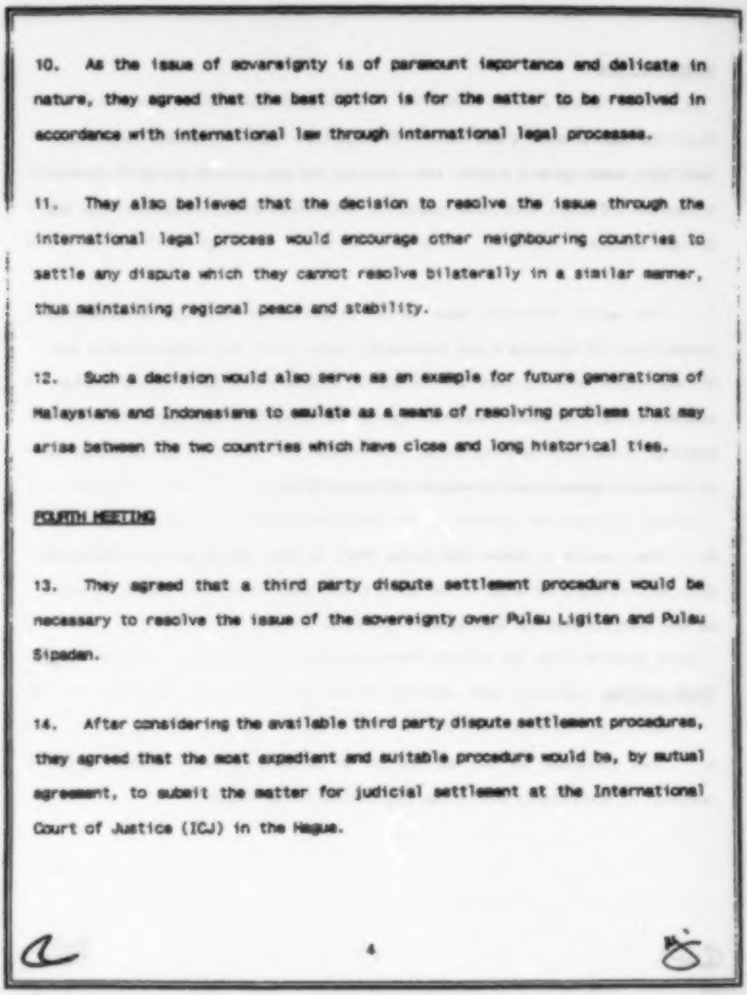
6. The second meeting was held in three parts— two private sessions between Dato' Seri Anwar Ibrahim and Mr. Moerdiono and one session with the participation of senior officials from both countries which took place in between the two private sessions.

7. The senior officials made verbal presentations and counter-arguments respectively of Malaysia's and Indonesia's case. Dato' Seri Anwar Ibrahim and Mr. Moerdiono observed that both sides reiterated the arguments and counter-arguments that had been presented during the three previous senior officials meetings in the Joint Working Group, held between 1992 and 1994. No new arguments or counter-arguments were presented by either side.

8. They reached a common conclusion that, as both Malaysian and Indonesian officials strongly believed in the validity and legality of their cases, it would be difficult to resolve the issue bilaterally.

THIRD MEETING

9. They discussed various options for an amicable solution concerning the question of sovereignty over Pulau Ligitan and Pulau Sipadan.



10. As the issue of sovereignty is of paramount importance and delicate in nature, they agreed that the best option is for the matter to be resolved in accordance with international law through international legal processes.

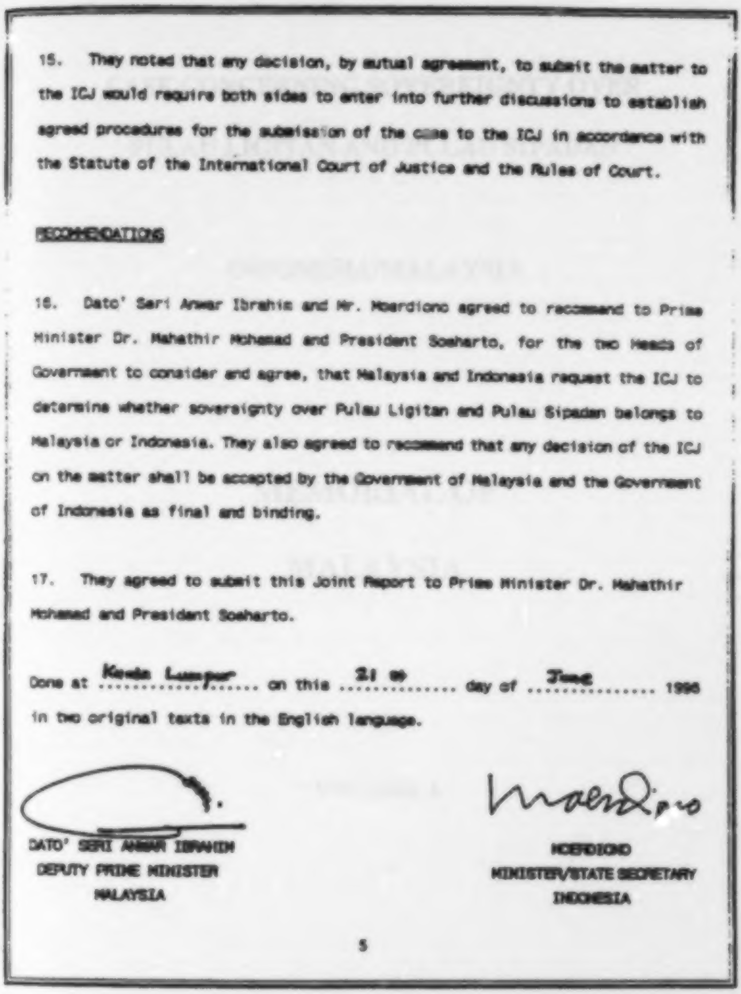
11. They also believed that the decision to resolve the issue through the international legal process would encourage other neighbouring countries to settle any dispute which they cannot resolve bilaterally in a similar manner, thus maintaining regional peace and stability.

12. Such a decision would also serve as an example for future generations of Malaysians and Indonesians to emulate as a means of resolving problems that may arise between the two countries which have close and long historical ties.

FOURTH MEETING

13. They agreed that a third party dispute settlement procedure would be necessary to resolve the issue of the sovereignty over Pulau Ligitan and Pulau Sipadan.

14. After considering the available third party dispute settlement procedures, they agreed that the most expedient and suitable procedure would be, by mutual agreement, to submit the matter for judicial settlement at the International Court of Justice (ICJ) in the Hague.



15. They noted that any decision, by mutual agreement, to submit the matter to the ICJ would require both sides to enter into further discussions to establish agreed procedures for the submission of the case to the ICJ in accordance with the Statute of the International Court of Justice and the Rules of Court.

RECOMMENDATIONS

16. Dato' Seri Anwar Ibrahim and Mr. Moerdiono agreed to recommend to Prime Minister Dr. Mahathir Mohamad and President Soeharto, for the two Heads of Government to consider and agree, that Malaysia and Indonesia request the ICJ to determine whether sovereignty over Pulau Ligitan and Pulau Sipadan belongs to Malaysia or Indonesia. They also agreed to recommend that any decision of the ICJ on the matter shall be accepted by the Government of Malaysia and the Government of Indonesia as final and binding.

17. They agreed to submit this Joint Report to Prime Minister Dr. Mahathir Mohamad and President Soeharto.

Done at Kuala Lumpur on this 21 st day of June 1996 in two original texts in the English language.

Moerdiono

DATO' SERI ANWAR IBRAHIM
DEPUTY PRIME MINISTER
MALAYSIA

MOERDIONO
MINISTER/STATE SECRETARY
INDONESIA

CASE CONCERNING SOVEREIGNTY OVER PULAU LIGITAN AND PULAU SIPADAN

INDONESIA/MALAYSIA

MEMORIAL OF MALAYSIA

VOLUME 4

2 NOVEMBER 1999

Annex MM 76

STATEMENT OF NAKODA GOMBA, THE SULTAN'S AGENT ON THE EAST COAST OF BORNEO, JULY 12, 1875

Inclosure in No. 46.

Statement of Nakoda Gomba, Agent of the Sultan of Sulu, on the East Coast of Borneo.

I AM the Agent of the Sultan of Sulu charged with the superintendence of the trade on the north-east coast of Borneo. I left Sulu on the last occasion about the beginning of June. Some time before leaving an Agent from the Governor-General of Manila had arrived, bringing a letter from the Governor-General. The Agent's name is Captain Oleo Albaris. He is not a Spaniard, but of mixed breed, and speaks many languages. The letter of the Governor-General invited the Sultan to state the terms on which he would again hoist the Spanish flag. The Agent did not have a personal interview with the Sultan. The business was transacted with him through Panglima Adack, the Tuan Khalib, and others appointed by the Sultan. The Sultan of Sulu objected to six points of the Capitulation of 1851. There are seventeen Articles in it altogether. Nos. 3, 7, 13, and 14 the Sultan objected to retain, and two others, but I cannot remember them. The Sultan made his desire for freedom of trade the point he was most anxious should be conceded to him, and said that, these points being agreed to, he would once more hoist the flag of Spain. Captain Oleo said he had no power to arrange any terms; he could only carry the Sultan's request to the Governor of Manila.

Sulu is in no distress for provisions, and I heard nothing in Sulu to induce me to suppose there was any idea of surrender except on terms such as I have indicated. There is no want of supplies at Sulu, and things are at moderate prices. A brisk trade is carried on by the Chinese who reside at Sulu with the town of Zamboangan. It is not an open trade, but is connived at by the Spaniards. The traders who go to Zamboangan report themselves as being from Basilan, but the Spanish ships know all about it. A message has lately been received at Sandakan from Binkoka in Malludu Bay, saying that the Spaniards have entered into negotiations with Sheeref Yasaan, who resides there, saying they want to become friends and to pay him a visit, and the message continued that they would subsequently desire to visit Sandakan and become friends with the people there.

The people at Sandakan are very much afraid of their coming and taking that country.

The people who attacked the boat of the Austrian frigate are Bajows of Omadar, a small island near Pulo Gaya. The boat they took is at Sibutee. They mistook the flag of the frigate, and thought the ship belonged to their enemies, the Spaniards. I have written all the information I can collect on the subject to the Sultan of Sulu, and soon expect to receive his orders. I think he will certainly order the apprehension and execution of two of the Chiefs.

(Signed) GOMBA, his × mark.

The above statement taken and signed by Gomba, after having been carefully read over to him, before me, at Labuan, this 12th day of July, 1875.

(Signed) HUGH LOW, *Administering the Government.*

Annex MM 77

LETTER FROM ACTING CONSUL-GENERAL HUGH LOW TO THE EARL OF DERBY, JULY 15, 1875

No. 46.

Acting Consul-General Low to the Earl of Derby.—(Received September 4.)

Labuan, July 15, 1875.

My Lord,

I HAVE the honour to inform your Lordship that by the arrival of the German steam-vessel "Augusta" from Sandakan, on the east coast of Borneo, I have received information from the Island of Sulu up to the date of the departure from that island of Mr. J. B. Howard.

Nakoda Gomba, the Agent entrusted by the Sultan of Sulu with the collection of his duties on the east coast of Borneo, has also arrived in Labuan by this opportunity.

Affairs in Sulu remained in precisely the same state as reported in my despatches of the 4th and 8th May last, and Nakoda Gomba, who was in March within hearing at the interview of the Spanish Agent, whom he calls Captain Oleo Albaris, with the officers appointed by the Sultan to discuss the letter of the Governor-General of the Philippines, gives substantially the same account of the demands of Spain and of the reply of the Sultan as that contained in the two despatches above referred to, and says that the Sultan of Sulu would "once more" hoist the flag of Spain if his requests, especially that for freedom of trade, were complied with.

Whilst Mr. Howard was still in the island, on the 22nd or 23rd June, a letter was received by Datu Hassim, the Sultan's Governor of the eastern district of Sulu, from Captain Olleo, dated at Magindanao, in which that officer, as reported by Mr. Howard, informed the Sultan that "having tried to do everything he could for the Sultan and having failed, he should not come back to Sulu any more, and the Sultan must not be surprised at anything which might happen to him in consequence."

This letter was looked upon as an intimation of further hostilities, and the Sultan and Datus held a Council upon it on the 30th June, Mr. Howard being present in the hall, but not understanding the Sulu language. He was informed, however, that the result of the deliberation was to maintain at all hazards the position they had formerly taken up.

Mr. Wyndham, the resident Agent in Sulu for a trading company of Singapore, and who is thoroughly conversant with the language and people, and who, although educated in England, was born amongst them, and who is consulted by the Sultan, assured Mr. Howard that if freedom of trade were conceded the Sultan would again consent to submit to Spain.

Mr. Wyndham's father, when residing in Sulu, was always considered to be an Agent of the Spanish Government, and it is believed that the sympathies of his son, who has lived long in Manila, are also in that direction.

The Sultan of Sulu treated Mr. Howard, after the loss of his ship, with the greatest kindness, clothing and feeding him with profuse liberality. He told Mr. Howard that he was preparing a letter to send to Labuan, and intended to have sent it to him to read, but it had not arrived when Mr. Howard left the island.

The Spaniards, in ascertaining the position of his vessel, were evidently acting upon information they had received, and not from having discovered her by the vigilance of their cruisers. Mr. Howard thinks that this information had been communicated from Labuan, where a priest, the Rev. C. Cuarteron, had arrived from Manila some days before he left, and had been exceedingly busy in boarding all the ships and prahus in the harbour, collecting information in reference to the Eastern trade.

This gentleman has lived for many years in Labuan, professedly as a missionary, but no results of his Christian teaching are yet apparent. He is known to be in regular communication with the Spanish Government, and it is believed, on good grounds, that it was owing to his representations that the Settlement at Balabac was established, and more recently that at Port Royalist (Porto Principessa), in the southern half of Palawan.

Gomba refers to the Spaniards having been lately in communication with Shereef Yassin in Malludu, and I have heard from other sources that they have also made advances to Datu Hassim, the Sulu Chief of the southern half of Palawan, which they did not blockade during the first year of their operations against the island.

These measures indicate an intention of annexing the whole of the islands and the north-eastern part of Borneo.

The Dutch also are unusually active on the east coast, extending their influence from Coti over Berow and Bulungan, which they have long neglected, and where the English merchants of Singapore have trading Settlements. A vessel under that flag from Macassar recently loaded a cargo of pearl-shell at the Tawi Tawi Islands, and her captain communicated with Sulu without being put to much inconvenience by the so-called blockade.

Nakoda Gomba has ascertained that the people who attacked the party belonging to the Austrian frigate in May last were Bajows of the Island of Omadar, a small place near the mainland, in Darwel Bay of the charts. He says they mistook the ship for a Spanish vessel, and that the circumstances have all been reported to the Sultan of Sulu, whose orders he expects to receive on his return to Sandakan.

I inclose a copy of the statement made to me by Gomba, and I have forwarded an extract of that part of it which relates to the casualty which happened to the Austrians to the Consul for that nation at Singapore, as requested by Captain the Baron Oesterreicher.

I have, &c.

(Signed) HUGH LOW.

P.S.—I have transmitted a copy of this despatch for the information of the Earl of Carnarvon.

H. L.

Annex MM 78

PROTEST OF CHIEFS OF SANDAKAN AGAINST SPANISH OCCUPATION, SEPTEMBER 7, 1878

Protest of Chiefs of Sandakan against Spanish Occupation.—(Inclosure in Letter dated September 7, 1878, from Mr. W. B. Pryer.)

WE, the following Dattos and Chiefs of people of the Bay of Sandakan, North Borneo, protest against the hoisting of the Spanish flag at Sandakan, or elsewhere in these parts. We have taken no part in any wars between Spain or Sulu; no pretence has ever been made during previous visit of Spanish man-of-war to exercise any authority over us. We have never received information of any arrangement in any way affecting us, and before any such Treaty could be made we, according to the laws of Sulu, should be consulted. Without the matter being refused is illegal: and anyhow we protest against the hoisting of the Spanish flag on any pretence whatever.

We also wish to state that the matter of the transfer of this country to an English Company having been referred to us by the Sultan six months ago, we have agreed to that transfer and are bound by it.

DATOH HADJEE.
TUAN IMAM.
NACHID OOTONG.
DATOH DOCOLAE.
DATOH DOONDING.
MOHAMED ASCAH.
GUMBA.
S. ABDUL WAHAB.

Annex MM 79

TELEGRAM FROM ACTING CONSUL-GENERAL TREACHER TO THE MARQUIS OF SALISBURY, SEPTEMBER 24, 1878

No. 128.

Acting Consul-General Treacher to the Marquis of Salisbury.—(Received September 24.)

(Telegraphic.) *Labuan, September 24, 1878.*

SPANISH gun-boat visiting Sandakan, Malludu, and Tampassuk. Ordered Sandakan Sulus to hoist Spanish flag. They refused.

Annex MM 80

DESPATCH BY LIEUTENANT C.K. HOPE, COMMANDER OF HMS *ZEPHYR* IN RELATION TO AN ACTION TAKEN AGAINST OMMADDAL, JUNE 28, 1886

H. M. S. "ZEPHYR."

RETURN to an Address of the Honourable The House of Commons, dated 11 February 1887;—*for*,

"PAPERS relating to the Recent OPERATIONS of H. M. S. 'ZEPHYR' against NATIVES of *North Borneo*."

Admiralty,
22 February 1887.

EVAN MACGREGOR,
Secretary.

(*Dr. Cameron.*)

Ordered, by The House of Commons, *to be Printed*,
29 *April* 1887.

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PAPERS relating to the Recent OPERATIONS of H. M. S. "ZEPHYR" against NATIVES of *North Borneo.*

Lieutenant *C. K. Hope*, Commander of Her Majesty's Ship "Zephyr," to Commander *H. M. Davis*, R.N., Her Majesty's Ship "Daring."

Reporting Proceedings.

(Extract.)

H. M. S. "Zephyr," at Sea, Straits of Batabee,
28 June 1886.

Sir,

IN continuation of my letter of proceedings, dated 21st instant,* I have the honour to inform you that at the particular request of his Excellency the Governor of British North Borneo, I left Sandakan at 6 a.m. on the 22nd June for Silam, hoping there to obtain precise information as to the state of affairs generally in Darvel Bay. The Governor of North Borneo, with steam-launch "Sabine," two officers of the North Borneo Company, and about 47 Sikhs and Dyaks, left at the same time, in case the situation had become so acute as to need their interference.

er of 21 June
s to other
s.

2. On arrival at Silam on the following day the settlement appeared to be practically in a state of siege.

I found, on inquiry, that the Ehrans on north side of the bay were, with reason, afraid to cross the bay, and were therefore unable to follow their principal occupation, viz., that of collecting edible birds'-nests at the Sigallong Caves. Numerous prahus, manned by Bajous, were cruising along the south side of the bay, chasing any natives attempting to cross over, and even lurking behind the islands close to the settlement.

I consulted with the Governor, the Assistant President of Silam, and the two officers of the North Borneo Company (already mentioned), and arrived at the conclusion that the lives of the settlers and others at Silam would be in danger should action be deferred, and therefore I consented to join in the Expedition to Bann Bann Island, and arranged a plan of operations.

3. I left Silam at 5.30 a.m. on 24th instant, having embarked 15 Sikhs and a few Dyaks, there being no other means of transport, and arrived off Ommaddal about noon. Here the Chief of Ommaddal came off and expressed his willingness to do whatever he might be ordered, and was sent by Governor Treacher to endeavour to arrange a peaceful settlement with the Chiefs of the Bajows, but they refused to have any communication. Their women and children left the villages, their large boats were manned and drew slowly off to the southward at about two miles distance, where they concentrated, forming two divisions roughly in line abreast, the lighter boats being in rear. Observing these hostile movements, and that the armed boats were slowly advancing, I steamed abreast of the village of Pantow-Pantow and prepared for action. In the meantime the natives of Pantow-Pantow, whose boats were not afloat, performed a war-dance. A number of boats had now collected from all parts of the reef, and formed up on our port-beam near Ommaddal in a similar manner to those from Pantow-Pantow, but did not advance, and as I understood the natives of Ommaddal to be partially friendly, I took no notice beyond keeping one 20-pounder and a Gardner trained on them to drive them off in case they closed too much. About 1.15 p.m., at a pre-arranged signal from Governor Treacher in the launch "Sabine," I fired a shell at the Pantow-Pantow boats, which fell short, and of which they took no notice, continuing to advance. A few shots were now fired from the shore; I imagine from Brass Ceilas, but they took no effect, the distance being too great. I then opened fire from the foremost 20-pounder, and steamed

steamed slowly in. At the third shell the boats ceased advancing, and the fourth shell, bursting amongst them, caused such a panic that they hurriedly turned their boats and ran ashore. Some of the smaller boats escaped up a backwater, the larger boats grounding, their crews jumped out and ran into the jungle. The Ommaddal boats also drew off into the middle of the reef.

4. About 2 p.m., the ship being then abreast of the village of Bussan Melumtah, I opened fire upon it with shell from three guns, keeping the bow-gun playing on the deserted boats. The natives showed themselves occasionally till about 3 p.m., when they all disappeared in the thick jungle. Shortly after 3 p.m. all the Sikhs and Dyaks, with Governor Treacher at their head, proceeded to destroy the deserted boats, but these were so well constructed, and of such hard materials, that it was some time after sunset before all the men could be drawn off. Anchored to the north of Ommaddal about 6.30 p.m.

5. At daylight on 25th instant I weighed and ran in abreast of Pantow-Pantow, into which, and the adjacent jungle, a few shell were fired to clear it. The Sikhs and Dyaks were landed as before, burnt the village, and destroyed a considerable quantity of arms, paddy, &c. The landing party then proceeded along the beach to the village of Bussan Meluntah, which they destroyed. Shots were occasionally fired into the jungle to cover the landing party. About 10.30 a.m. the second village was destroyed, the landing party withdrawn, and Her Majesty's ship, under my command, then proceeded to Silam. The Governor communicated with the Chief of Ommaddal before leaving.

6. I anchored off Silam at 5.25 p.m. On the return passage from Ommaddal to Silam the numerous reefs and islands, which the day before had been covered with boats and men, were now apparently deserted, and the few Bajou boats which were sighted in the distance disappeared as rapidly as possible.

7. The Bajou prahus are well-built seaworthy boats, with bow and stern generally raised and ornamented; the larger boats generally carry one or more guns both forward and aft; they carry outriggers, draw little water, and sail well. A hard wood plank, placed perpendicularly, runs fore and aft, is loop-holed, and protects the crew from musketry fire, and is so hard that a bullet from a Snider rifle will not penetrate it at a short distance. The after part of the boat is generally covered with a neat roof.

8. I trust my action in this matter will meet with your approval and that of the Commander in Chief, and that I may not be considered to have exceeded my duty, and hope the correspondence already forwarded and that now enclosed will be deemed to have given me reasons for acting as I have done. From what I heard at Silam I certainly consider that any delay would have caused much loss of life, while at present the loss on our side is nil, and I imagine the pirates are more frightened than hurt.

9. I left Silam at 9.40 a.m. on 26th instant, arrived at Sandakan at 9 a.m. on 27th, coaled, and proceeded to Labuan at 5.10 p.m.

10. The following is a list of Chiefs concerned in the recent acts of piracy and kidnapping:—

Emaum Sinkallong.
Panghni Daduhin.
Marajah Lambi.
Marcoahi.
Aphah.

I have, &c.
(signed) *C. K. Hope,*
Lieutenant and Commander.

Commander Edward H. M. Davis, R.N.,
H.M.S. "Daring," Senior Officer,
Straits of Malacca.

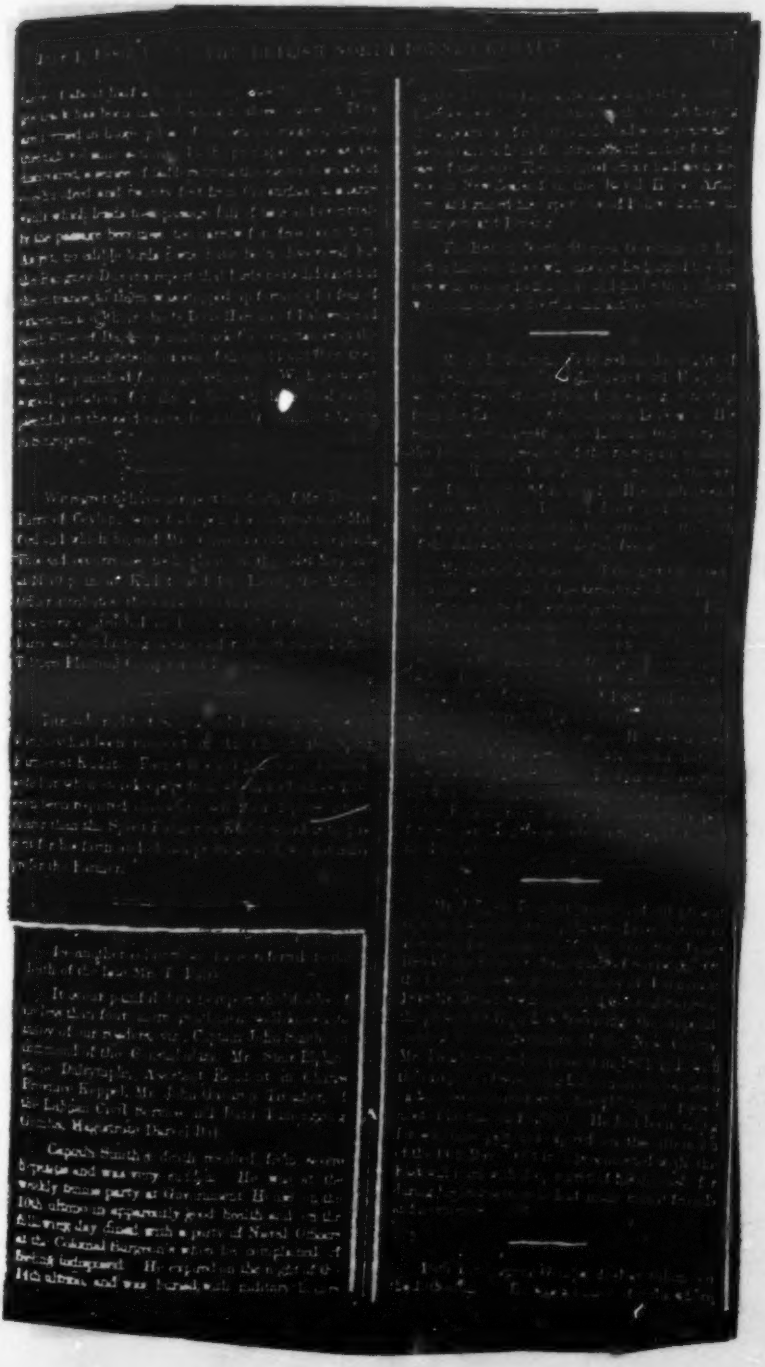
Annex MM 81

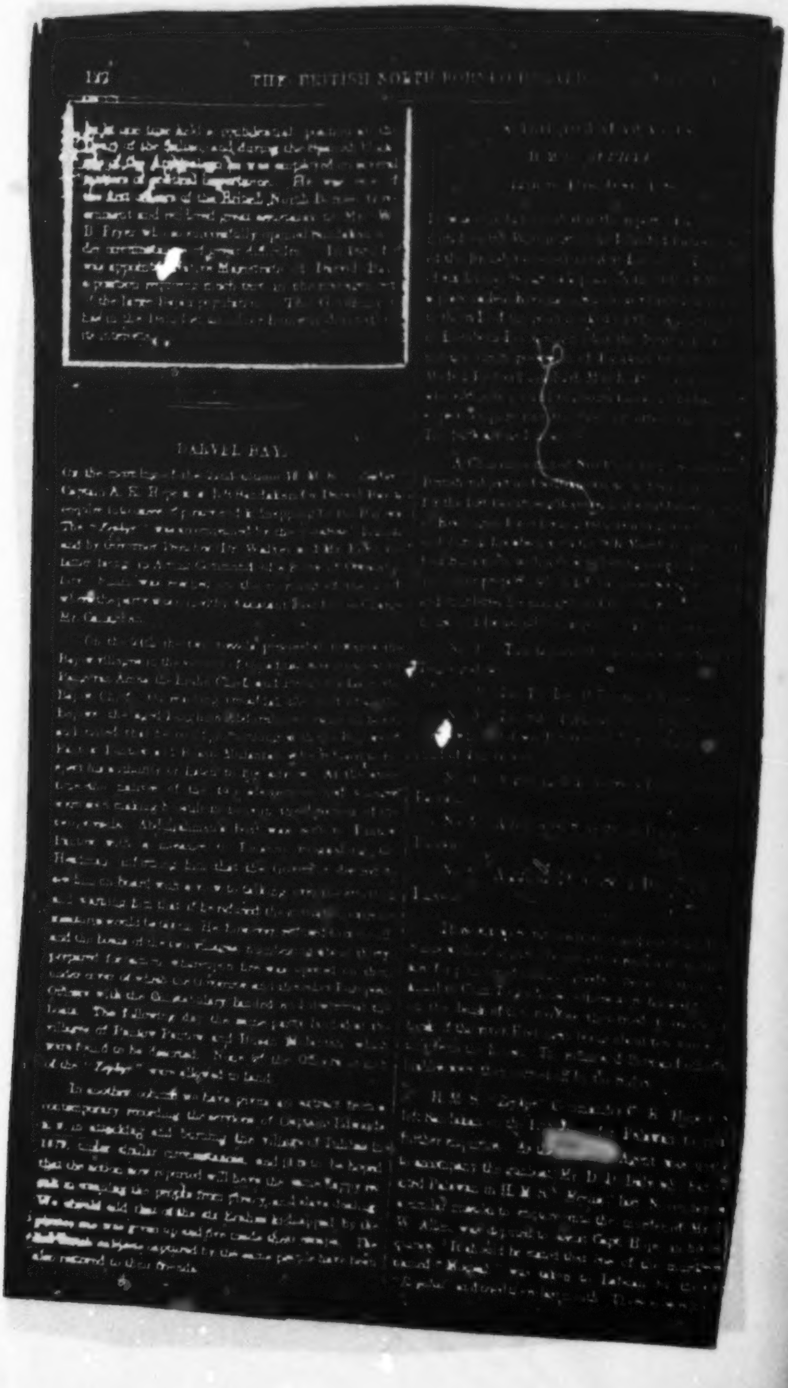
BRITISH NORTH BORNEO HERALD,
JULY 1, 1886, PP. 121-122

EXTRACT FROM THE BRITISH NORTH BORNEO HERALD, JULY 1, 1886

Datu Tumonggong Gomba died at Silam on the 13th ultimo. He was a native of Sulu where he at one time held a confidential position at the Court of the Sultan, and during the Spanish blockade of the Archipelago he was employed on several matters of political importance.

He was one of the first officers of the British North Borneo Government and rendered great assistance to Mr. W. B. Pryer who so successfully opened Sandakan under circumstances of great difficulty. In 1882 he was appointed Native Magistrate of Darvel Bay, a position requiring much tact in the management of the large Bajau population. The Government has in the Datu lost an officer honestly devoted to its interests.

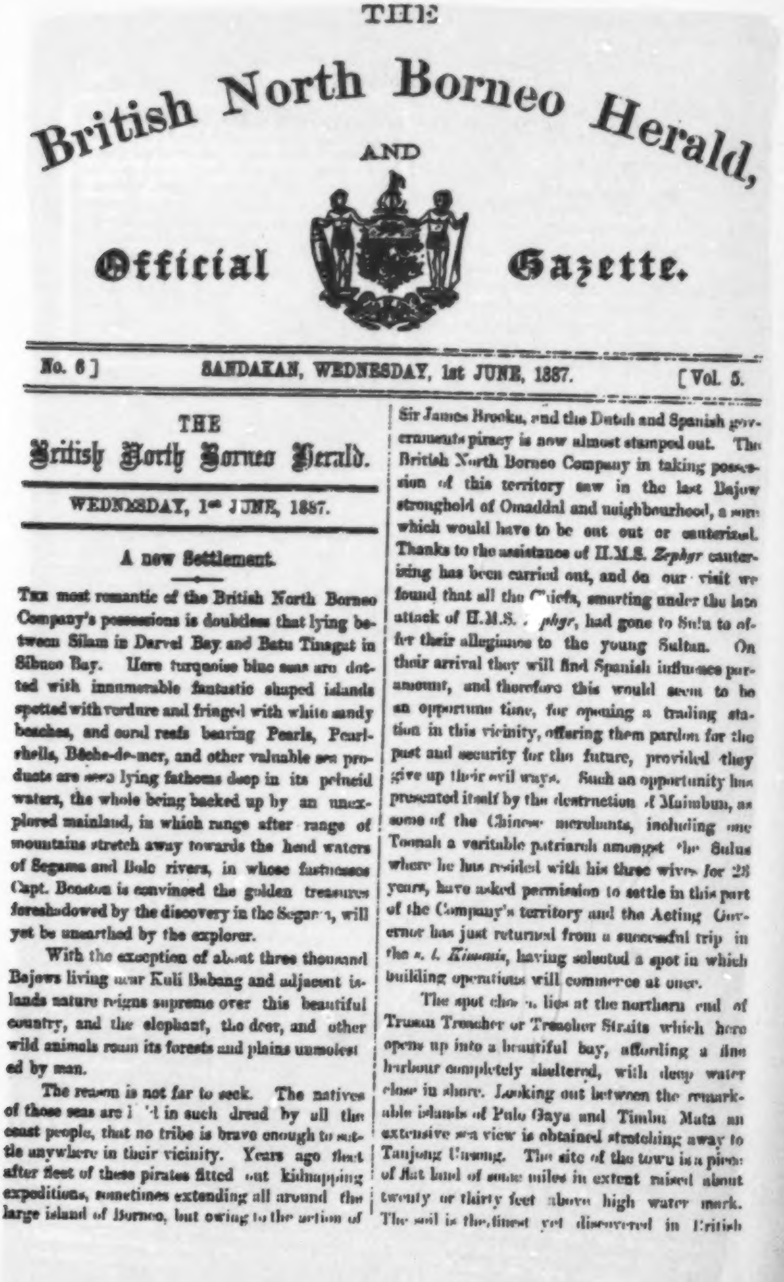




DARVEL BAY.

Annex MM 82

BRITISH NORTH BORNEO HERALD,
JUNE 1, 1887, PP. 119-121



THE

British North Borneo Herald,

AND

Official Gazette.

No. 6] SANDAKAN, WEDNESDAY, 1st JUNE, 1887. [Vol. 5.

THE

British North Borneo Herald.

WEDNESDAY, 1st JUNE, 1887.

A new Settlement.

THE most romantic of the British North Borneo Company's possessions is doubtless that lying between Silam in Darvel Bay and Batu Tinagat in Sibuco Bay. Here turquoise blue seas are dotted with innumerable fantastic shaped islands spotted with verdure and fringed with white sandy beaches, and coral reefs bearing Pearls, Pearl-shells, Bêche-de-mer, and other valuable sea products are seen lying fathoms deep in its pelucid waters, the whole being backed up by an unexplored mainland, in which range after range of mountains stretch away towards the head waters of Segama and Bole rivers, in whose fastnesses Capt. Beeston is convinced the golden treasures foreshadowed by the discovery in the Segama, will yet be unearthed by the explorer.

With the exception of about three thousand Bajows living near Kuli Babang and adjacent islands nature reigns supreme over this beautiful country, and the elephant, the deer, and other wild animals roam its forests and plains unmolested by man.

The reason is not far to seek. The natives of those seas are held in such dread by all the coast people, that no tribe is brave enough to settle anywhere in their vicinity. Years ago fleet after fleet of these pirates fitted out kidnapping expeditions, sometimes extending all around the large island of Borneo, but owing to the action of Sir James Brooke, and the Dutch and Spanish governments piracy is now almost stamped out. The British North Borneo Company in taking possession of this territory saw in the last Bajow stronghold of Omaddal and neighbourhood, a sore which would have to be cut out or cauterized. Thanks to the assistance of H.M.S. *Zephyr* cauterising has been carried out, and on our visit we found that all the Chiefs, smarting under the late attack of H.M.S. *Zephyr*, had gone to Sulu to offer their allegiance to the young Sultan. On their arrival they will find Spanish influence paramount, and therefore this would seem to be an opportune time, for opening a trading station in this vicinity, offering them pardon for the past and security for the future, provided they give up their evil ways. Such an opportunity has presented itself by the destruction of Maimbun, as some of the Chinese merchants, including one Toonah a veritable patriarch amongst the Sulus where he has resided with his three wives for 28 years, have asked permission to settle in this part of the Company's territory and the Acting Governor has just returned from a successful trip in the s. l. *Kimanis*, having selected a spot in which building operations will commence at once.

The spot chosen lies at the northern end of Trusan Treacher or Treacher Straits which here opens up into a beautiful bay, affording a fine harbour completely sheltered, with deep water close in shore. Looking out between the remarkable islands of Pulo Gaya and Timbu Mata an extensive sea view is obtained stretching away to Tanjong Unsang. The site of the town is a piece of flat land of some miles in extent raised about twenty or thirty feet above high water mark. The soil is the finest yet discovered in British

North Borneo, being composed of black friable loam some feet deep, with an admixture of coral, the flourishing tapioca and plantains planted by some Bajows testifying to its fertility. Excellent water is obtainable a short distance off, which can easily be conveyed to the town should wells fail to give a supply, all coasting steamers pass through the straits, and as it is situated in the midst of the people and produce described above, there is every reason to hope an important settlement will spring up under the fostering care of the British North Borneo Company.

The Acting Governor addressed the people telling them, that as the tribes were being driven out, and the Bajows harassed on all sides he had selected a station which he had named SEMPORNA known to the Malay, Sulus and Bajows as a place of rest, and hoping that the name would prove a happy augury for the future he wished the new settlement all prosperity. The Sikhs drawn up on each side of the steam launch, were then addressed by Capt. Beeston, fired three volleys, and gave three lusty cheers in which all joined. Thus ended the christening ceremony of a new station which we sincerely hope will prove instrumental in opening up the treasures lying at its door, in peopling the surrounding lovely country with law abiding people and in replacing barbarism by civilisation.

Sandakan Notes.

MR. Fung Ming Shan has been appointed by His Excellency the Governor to the position of "Capitan China".

BY the barque *Billy Simpson* which arrived here on 3rd May there arrived thirty-nine Hakka Chinese immigrants from Hongkong.

IT is stated that a Parcels Post has been arranged for on the Indian Parcels Post system between Great Britain and British North Borneo.

WE are glad to learn that the value of land is enhanced and enquiries for the same at Silam are becoming brisk. The Chinese traders and others are turning their attention to the acquisition of Town lots.

THE Authoriti[illegible] at the Colonial Office have sent instructions to Hon[illegible]ng to the effect that Chinese labor is to be allowed to [illegible] recruited in that colony for works and plantations in British North Borneo.

WE understand the Court of Directors have forwarded to Sandakan copies of the reports on the various Colonial Courts at the late Colinderies Exhibition. Extracts from these will appear in the *Herald* at an early date.

THE first pair for the Billiard Tournament for Governor Treacher's Cup was played off on the 31st ultimo when Mr. H. B. Dunlop succeeded in wresting the victory from Mr. A. Cook. The game was 200 up.

WE have to acknowledge with thanks the receipt from Mr. Joseph Hatton of a donation of books to the Club Library. Among them is the novel of "Clytie" by the donor and "Frank Hatton in North Borneo."

MR. A. Walker the representative of the "British Borneo Trading and Planting Company" has commenced operations on the Segaliud river by opening up 10 acres of land for planting pepper and also 70 acres at Tanjong Bakara to be planted up with pine-apple and other fibre plants.

THE latest report from Sulu is to the effect that the young Sultan Amir al Kiram with his followers has come in to the Spanish Authorities and acquiesced in the Sultanate of Datu Haroun. Datu Aliudin and 330 men are now the only remnant of the Maimbun force holding aloof in the mountains.

THE Honorary Secretary of the School Fund begs to thank through our columns those who have so kindly contributed towards its support and has much pleasure in informing them there is a balance in hand of $90.10 to end of 1886 which has been deposited in the Treasury.

MR. Henry Walker returned to Sandakan on May 21st having accomplished a very successful trip walking from the Kinabatangan to the Segama river and returning through the jungle to the Segaliud. This practically will open a direct road to the Gold Fields from Sandakan. Mr. Walker estimates the distance from Segaliud to Segama at 25 miles.

WITH reference to H. H. al Raschid's letter to His Excellency W. H. Treacher Governor of Sabah which was published in the *Herald* of April, 1st, we understand His Excellency the Governor has received a letter from the Governor of Jolo stating Datu Haroun al Raschid had no authority to issue such a Notification which is contrary to the Sulu Protocol of 7th March, 1885.

ONE of the Chinese traders lately burned out of Maimbun, Sulu, intends to settle in the territory and open a trading station at Semporna the new settlement at the head of Trusan Treacher. Mr. Toonah has been for 23 years in Malukan and is well known to the natives. Mr. Toenah left for Tungku in the s. s. *Paknam* on the 24th ultimo in order to remove all his goods and chattels to Simporna. May he attain every success.

We learn that Lady Brassey in her own and Lord Brassey's name has forwarded to His Excellency the Governor a cheque for £100 to be expended in establishing a European ward in the Sandakan Hospital. Her Ladyship's generous gift is well timed, as the want of such a ward has been felt lately.

The steam launch *Chip Seng* arrived here early on Saturday morning May 7th having on board the Commandant Capt. E. D. Beeston, accompanied by Mr. W. Forbes Moses and forty men of the Constabulary, from the Labuk river. The expedition on which the party left was perfectly successful, and the blood feuds between the tribes in the Kinabatangan and Labuk rivers have been amicably settled. The force was absent from Sandakan 51 days and returned in good health.

We are glad to notice the value of our billian timber is becoming widely known and the timber coming into great demand. The Manager of the Canadian Pacific Railway has applied for samples of the wood which will be supplied by Messrs. E. E. Abrahamson & Co. His Excellency the Acting Governor has given orders that in future all Public Works when feasible are to be constructed of billian, it being practically almost indestructible.

His Excellency the *Acting* Governor W. M. Crocker Esq., left for Labuan in the s. s. *Hong Ann* on Tuesday 17th May to meet His Excellency Sir F. A. Weld, Governor of the Straits Settlements, who arrived in the *Sea Belle* on the 19th under instructions from the Foreign Office to make a searching inquiry into Brunei affairs and other questions in connection with British North Borneo, Labuan and Sarawak. H. M. S. *Wanderer* and *Espoir* accompanied Sir F. A. Weld to Labuan, the former coming on to Sandakan. Having settled affairs in Brunei Sir F. A. Weld will accompany Mr. Crocker to Sandakan.

On 30th ultimo the Straits Government steam yacht *Sea Belle* arrived in Sandakan at 3 p.m., having on board His Excellency Sir Frederick A. Weld G. C. M. G. Governor of the Straits Settlements who was accompanied by His Excellency the Hon'ble W. M. Crocker, Mr. A. R. Dunlop, Messrs Peel and Kinnersley of the Straits Government service, the Hon'ble Mr. Walley, Private Secretary, and Lieutenant Dudgeon, 82nd South Lancashire Regiment A. D. C. The Hon'ble A. S. Hamilton also arrived in the yacht and piloted her through the Malawalli. His Excellency enjoyed some 'shikar' at Kudat. Full particulars of the visit will be given in our next issue.

63/F

We learn from the *Straits Times* that His Excellency Mr. W. H. Treacher when landing at Labuan was received by a deputation of Chinese Merchants and others and an address was read and presented to him on their behalf by Mr. Wee Lim Guan the British North Borneo Company's agent at that port. Accompanying the address was a handsome walking stick mounted with Segama gold. In the course of an eloquent reply to the deputation His Excellency alluding to the rumours of late rife regarding "annexation" of Labuan, strongly advised them not to hanker after either the British North Borneo Company's flag or that of Sarawak; saying that the British flag which had floated over their island so long was a favoured thing to be preferred to either. Mr. Treacher who was accompanied on shore by Mr. D. D. Daly, Resident Province Dent, and Mr. W. R. Flint, Harbour Master, Sandakan, re-embarked in the s. s. *Paknam*. We hear both he and Mr. Flint left Singapore for home on May 17th by the German Mail Company's steamer.

On Sunday evening May 8th His Excellency W. M. Crocker Esq., Acting Governor of the Territory accompanied by Capt. Beeston Commandant left in the steam launch *Kimanis* for Silam which place was reached after a fine passage at 6 p.m., on the following day. Having picked up Messrs. Callaghan and Robertson the *Kimanis* left at 2 p.m., on the 10th and reached Omaddal at 9 a.m. Here it was found that the Bajows had gone over to Sulu, and the launch headed for Trusan Treacher. The party went ashore on one of the islands in the Trusan where there is a Bajow settlement. This island is evidently of volcanic origin the rock being a species of granite close-grained, dark in colour showing pyrites with traces of copper oxide. Fine coral beds abound in the bright blue waters and some specimens were collected. Regaining the launch and steaming towards the head of the Trusan His Excellency and party at 5.30 p.m., reached a spot close to the Darvel Bay entrance of the Trusan and landed. The bank here is some 50 feet above high water mark and the country an immense tract of flat land stretching back many miles. The soil is volcanic of a splendid quality; and *His* Excellency at once fixed upon it as a site for the new station which the Chinese trader Toenah is to inaugurate in the Darvel Bay District. His Excellency christened the place 'SIMPORNA' meaning a place of rest. The Sikh escort fired three volleys and gave three cheers for the new settlement. On the 11th the party returned to Silam where Messrs. Callaghan and Robertson were landed and the *Kimanis* left for Sandakan at 5.30 p.m. arriving at 6 p.m. on the 12th.

Visit of H. M. S. "Wanderer."

During the afternoon of *Saturday* May 21st, the news of a man-of-war was announced from Fort Pryer as coming into the harbour, and shortly afterwards H. M. S. *Wanderer* from Singapore and Labuan en route to Hongkong anchored abreast of the new Markets. She is a composite sloop of 925 tons and 870 horse power, and carries 4 guns besides Gardners. She was commissioned for the China squadron at Sheerness on May 1st 1884 and has been now three years on the station.

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BRITISH NORTH BORNEO HERALD, MAY 1, 1892, P. 137

of the morning, and before the eventful day arrives the whole community can think of nothing but lotteries and "books" colours and odds, until the whole thing gets rather tiresome to those not specially interested.

Something of the same sort is evidently impending over us in Sandakan; a beneficent nature has almost laid out for us a flat piece of land at the back of the town, which has required but a minimum of expense to make a very decent race course of over three quarters of a mile round, ponies of all sorts and sizes are to be seen there morning and evening, scurries have already been held, the programme is out, lotteries are contemplated, "Three to one, bar one" has already been heard mingling with the congenial aroma of the after dinner cigar, and we are evidently in for a proper race meeting with all its surroundings.

LATEST SANDAKAN BETTING.—The business is confined to the Champion Cup, the only other mention, about which there was a genuine ring being 10 to 7 against Old Gold running the double event, viz: Champion and *Egeria* Cup, and we hope to see the stable pull it off. There was a small wager of 40 to 10 against Mr. Trotter noted for the Tennis Championship.

THE CHAMPION CUP.

Run Tuesday, 24th May, distance half-a-mile.

Evens.	Against.		Old Gold.		(t & w)
85 to 40	... – ...		Maccaroni.		(t & n)
3 to 1	... – ...		Blazer.	...	(t & n)
6 to 1	... – ...		Smoke Gray...		(t & w)
100 to 10	... – ...		No. 2.	...	(n)

TENNIS CHAMPIONSHIP.

4 to 1	... – ...	Trotter.	...	(t & w)

THE Resident of Upper Sarawak Mr. R. Awdry gives a very interesting report in the March number of the *Sarawak Gazette* of the Land Dyak Revenue collected in his district during the past ten years (1891-1892) and with regard to the increases of revenue from the different tribes Mr. Awdry remarks:— "It is interesting to observe the payments made by each tribe during the past ten years, and generally the rule holds good that the tribes which have been most frequently visited personally shew the greatest increase. Mr. Awdry gives the names of three villages he has never been able to visit where the increases are small. Each able bodied man pays $2 a year to the Revenue and 25 tribes pay an average of about $200 a year."

HIS Excellency the Acting Governor returned from Labuan and Gaya on the evening of the 5th ult. Whilst at Labuan His Excellency visited Brooketown, Menupakol and Menumbok and the two sago factories at the last named place, where also a third is in course of erection. During the stay at Gaya a visit was paid to Papar, His Excellency going up the river in a jukarangan.

THE Government Cruiser *Petrel* was despatched to Silam on the 7th April to capture or punish some people who had raided Tambak, a village near Tuaku, and others who had killed a man and sold his wife. They were traced to Dinawan and as they could not be found, whilst guilt was conclusively brought home to that island village, Mr. Stewart landed with Mr. Cator and some police, and burnt the houses. The main body have been traced to Dutch territory and we are informed that an application for their rendition is being made.

WE are informed that His Excellency Governor Creagh is not returning here until August 1st.

THERE was no "At Home" at Government House on Thursday 21st ult. in consequence of the departure of the s.s. *Rance* on that date, by which the Misses Beaufort went to Singapore *en route* for England.

WE hear that Mr. Fernandes of the Sandakan Iron Works has purchased by private contract the Government Launch *Sabine*.

THE s.s. *Memnon* arrived from Hongkong *via* Kudat on Friday April 22nd. and left again for Hongkong on April 29th. Mr. and Mrs. Cook were passengers to Hongkong. Mrs. Cook having gone up for a change, as we regret to say she has not been very well lately.

THE Easter holidays passed off without any event worth noting. We believe those who care for holidays enjoyed themselves after their own fashion and no doubt availed themselves of so many hours rest from official duties. Those who look on holidays in this country as delusions and snares, did office work totally undisturbed by the usual crowd who swarm round offices on every day occasions.

WE are requested by Mr. Alex: Wardrop to insert the following return of Gun Club shooting for the Silver Handicap Cup. Mr. Leach is the winner, although Captain Barnett, Messrs. Patteson and MacKenzie ran him close. The match was shot off on April 16th.

Name.	Handicap yards.											Total No. Killed.	Misses.	[illegible]
H. E. The Governor ...	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Capt: E. A. Barnett ...	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mr. J. H. Patteson ...	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mr. E. [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mr. D. MacKenzie ...	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mr. C. M. H. [illegible] ...	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]						[illegible]	[illegible]	
Mr. A. Cook	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]				[illegible]	[illegible]	[illegible]
Mr. Leach	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible] *

* Winner of Cup.

Weather Dull.

DURING the past month the Chinese celebrated two festivals, on the 8th and 23rd days of the 3rd moon,

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BRITISH NORTH BORNEO HERALD, SEPTEMBER 1, 1892, P. 285

Barnett, Mr. A. R. Dunlop and 25 Non-Commissioned Officers and men, reached H.M.S. *Egeria* at 1 p.m. of the same day, and embarking Mr. Rashleigh as a volunteer reached Oomaddal on August 4th. Pangeran Abdul Rahim had left with all his boats, but Maraja Leni was present. This chief received one hours notice to leave the place and when this time had expired, two parties were landed who under Messrs. Dunlop and Rashleigh burned the 18 houses constituting the village and 1 large *sapit* and several smaller boats. At 2 p.m. the party left, towing 27 boats on one long hawser, the boats being the property of Maraja Leni. The *Petrel* reached Simporna at 8 a.m. August 5th and sighted fifteen large *sapits* and several smaller boats on the "three mile" patch at Pulo Kaboug. The *Petrel* stood on as close as possible when the party embarked on the boats and formed line ahead, the Maxim gun in one boat with Captain Barnett, and Mr. Rashleigh: Mr. Dunlop in another boat, and two other smaller boats each containing six men. The boats had to be hauled over some coral patches on which were only six inches of water deepening suddenly to 10 feet. The occupants of the *sapits* challenged the party and one man executed a war dance to show they meant fighting, so the Maxim was brought into play. While the men led by Mr. Dunlop went for the enemy over the shallows the Bajows attempted, to get round the boats but were driven back by the firing, seven of the Bajows were killed and several wounded, the rest some 40 or 50 escaped; several spears were taken, also bedding, but no other arms were found in the *sapits*. When first seen the Bajows hoisted the Borneo jack, but on the approach of the boats they lowered it and prepared for a fight. All the *sapits* and small boats were burned and the *Petrel* returned to Simporna at 3 p.m. The Bajows it appears had threatened reprisals at Simporna so the Commandant Captain Barnett left a party of the Constabulary to defend the place and proceeded to Tawao where everything was found to be quiet. Leaving Mr. Rashleigh in Darvel Bay on board the s.l. *Normanhurst* to rejoin the *Egeria* the party returned to Sandakan which was reached on August 11th. No casualties occurred among the Constabulary beyond the cutting of some of the mens feet by sharp coral when hauling the boats over the patches.

The s.s. *Poh Ann* returned from Sulu on August 18th and left the same day for Singapore *via* Labuan with the outgoing mails.

With reference to the deportation from Manila of Doctor Rizal, particulars of which are given in another column, we learn from a cablegram in the *Hongkong Telegraph* under date August 3rd that peremptory instructions have been sent to the Manila Government from Madrid to release Doctor Rizal at once.

A return match at whist H.M.S. *Egeria* v Sandakan took place on board on Monday 25th July, when the *Egerias* were 4 points to the good but the shore won the most rubbers. Messrs: Rashleigh and McKinlay beat Dr. Walker and Captain Barnett by five Rubs to three = 28 points. Messrs: Dunlop and Wilson beat Messrs: Walton and Hand by six Rubs to one = 24 points. The winners at the latter table had a remarkable run of luck.

By the steamer *Normanhurst* which arrived here from Labuan *via* Kudat, with coal for H.M.S. *Egeria*, Mr. Henry Walker Commissioner of Lands returned from a visit to the Marudu Bay district.

The late months of July and August will be memorable in the annals of Sandakan for the delays and disasters that have happened to our mails: and the consequent irritation accruing from the nuisance. Business men, and Planters naturally chafe under the circumstances, and we take it the Recording Angel will feel inclined to admit "extenuating circumstances" when writing down the various vigorous expressions used by them in consequence. The *Royalist* with three English mails led the van of retrogression by, clumsily running ashore in the Horsburgh Channel; and though the Captain of her went on board the *Normanby* within a few hours of disaster, he although knowing full well that the *Normanby* was bound to Sandakan, never hinted to Captain Gray that he would like him to take on the mails, nor did he even intimate to him that he had a mail on board. In consequence the drowned mails arrived in a state of pulp, and probably minus at least a "submerged tenth" of their whole contents. Next the *Petrel* takes to the ground and has to dock in Singapore, and Sandakan residents have been, without an English Mail from July 10th up to August: when some English Mails turned up in the *Rover*. We sincerely trust the experience of the past two months will act as a spur to hurry up arrangements for a more regular service. Even when mails are lost, and steamers escape the shoals the whole of our regular fleet tumble into Sandakan one on the heels of the other, as though they were engaged in an ocean race like the tea clippers of old with a prize for the first one at the goal.

The s.s. *Memnon* left Sandakan for Hongkong on August 23rd with a large cargo of timber, and as passengers Mr. J. J. Francis, c.c., and Mrs. Francis: Mr. and Mrs. Cotta, and Dr. K. Stewart.

The s.s. *Normanby* arrived at Sandakan from Singapore on August 22nd arriving under the Dutch flag. She is now designated as belonging to Amsterdam, the name of that city being painted on her stern, life bouys, boats etc,. She was somewhat unlucky on this her first trip under these new auspices having run ashore on Pulo Eno near Labuan, and on the Kudat beach. She left for Silam, Lahadatu, Menado, and Gorontalo on August 23rd.

Quite a sensation was created during the month

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distance observations, and afterwards to continue the survey, whilst the *Banda* re-joined the *Rattler* at Broersbank to explore the river and erect permanent beacons, at the spots mutually agreed upon. The river exploration merely proved that the Simengaris was little more than a deep mangrove creek which terminated abruptly a few miles from the mouth. The utmost cordiality and good feeling existed between the English and Dutch officers whilst engaged on this service, and the ships parted with mutual regret.

The *Egeria* continued to prosecute the survey until 27th June, extending the triangulation westward as far as Wilhelm Reef. Only one river of any considerable size empties itself on this coast. This the Kumpong River, with Kumpong Kumpong island at its entrance, was explored by the steam cutters to a distance of 9 miles in a direct line from the mouth where it was found to become so narrow that the trees were interlaced overhead and the boat could barely turn, although there was still a depth at that point of 2 to 3 fathoms; the water was quite fresh. The banks are low and lined with Nipa palms above the mangrove swamp which extends about 2 miles from the coast. In the upper reaches of the river the bends are sharp; occasional low red earth cliffs were passed. The Kumpong River appears to drain a considerable area of country, the Mt Pock Range forming the Eastern side of the valley which is 7 or 8 miles broad and Mt Wallendorf with its spurs stretching away in a North W by. direction, forming the west side. At the head of this valley the mountains on the south side of Darvel Bay 30 miles distant are plainly recognizable. From the appearance of the topography however although this valley seems to stretch to the North-Westward behind the Darvel Bay mountains, it is improbable that it extends to a greater distance than 20 or 30 miles from the coast in St. Lucia Bay.

Up to this time the weather had been exceptionally favourable for surveying operations. During April and May little or no rain had fallen and although the heat of the sun was fierce and especially trying when ascending hills and cutting timber yet the ship's company's health was everything that could be wished for. No cases of fever occurred, and with the exception of a few cases of ulcers, there was practically no sickness on board whatever. Fruit and vegetables were however very difficult to procure and the inhabitants appear to cultivate such things to a very limited extent. The villages are but few in number, and the people are said to be the descendants of the pirates that used to infest these waters. That occupation being now denied them they appear to live principally by fishing, cultivating no more ground than is absolutely necessary for their own immediate wants. It is with great difficulty that they can be induced to do any work such as cutting timber, and they expect a most preposterous remuneration for anything that they undertake.

On the North shore of Darvel Bay, in the vicinity of Tunku is the only cluster of villages, of which there are three two or three. Except the settlement of Silam, the remainder of the natives of Darvel Bay are to be found settled on the islands of Tatagan, Larapan, Bum Bum, and Dinawan. The last named island and Si Amil close to it do afford some small supplies of fruit, mangoes at Si-Amil being especially plentiful. Fortnightly steamers supplemented by various steam launches running between Sandakan, Lahat Datu, Silam and Simporna brought mails for the *Egeria* very regularly, and the masters of these vessels in many cases most courteously went out of their way to communicate at various times. Most of the smaller islands off the coast form the resort of wild pigeons in great numbers, particularly Mabul Island and turtle occasionally frequent the more outlying of the islands.

After a very enjoyable stay of a fortnight in Sandakan, the *Egeria* proceeded again to Darvel Bay on the 14th July to complete the year's work, the limit of time at present available for the Borneo Survey having been nearly reached. The weather now began to be more unsettled, and heavy rain squalls with strong breezes, in the early morning and afternoons being not unfrequent, but being of short durations the work was not seriously impeded thereby.

The survey had already been carried as far west as *Egeria* shoal, and several new reefs and one or two dangerous pinnacle rocks had been discovered. The Mabul passage through the reef west of the island of that name had been examined and a clear channel established to the north of the Ligitan Group up to Si-Amil Island. The survey was now continued from that point to meet the work which had been carried from Silam along the South coast of Darvel Bay as far as Timbu-Mata island and which had been there suspended by the ships departure to Sandakan in May. The natural objects being so numerous and so well defined hereabouts, and both the main and secondary triangulation having already been completed, the work of running in the detail of the coast-line and soundings proceeded very rapidly. The various rivers emptying themselves into Trusan Sigalong behind Timbu-Mata island were examined and their courses traced as far as the steam cutters could ascend, but they present no special points of interest. Trusan Sigalong, with its creeks and islands, was also examined, but its shallow waters prevent any vessel larger than a launch using it. The south shore of Timbu-Mata has numerous bays and deep indentations in its coast-line, but none fit for ships to anchor in, one and all being much encumbered by patches of reef and dangerous rocks. Trusan Treacher was found to be a good navigable channel, the tides however run with great velocity through it—3 to 4 knots—and the edges of the reefs on either side are not always clearly to be distinguished by eye. It therefore requires some caution in navigating it. Every care was taken to ensure that no shoal in any part of the survey should be omitted, and any indication of irregularity in the bottom was re-examined, whilst the ship was constantly crossing and recrossing the area sounded by the boats to make doubly sure that nothing might be omitted, the view obtained from the masthead being occasionally a valuable adjunct in certain lights in discovering a sunken danger which might possibly be missed by a boat and give no indication of its existence by the surrounding soundings.

Notwithstanding these precautions it must ever be borne in mind that no coast survey on such a scale as one inch to the mile, which may be said to be the usual scale for a survey of this description, can make absolutely certain that no danger may remain undetected. It is difficult for those unacquainted with the amount of time and patience required to find a rock to realize that a far larger scale than that which it is usually practicable to employ upon a coast survey, is necessary to detect such a danger as that upon which the [illegible]

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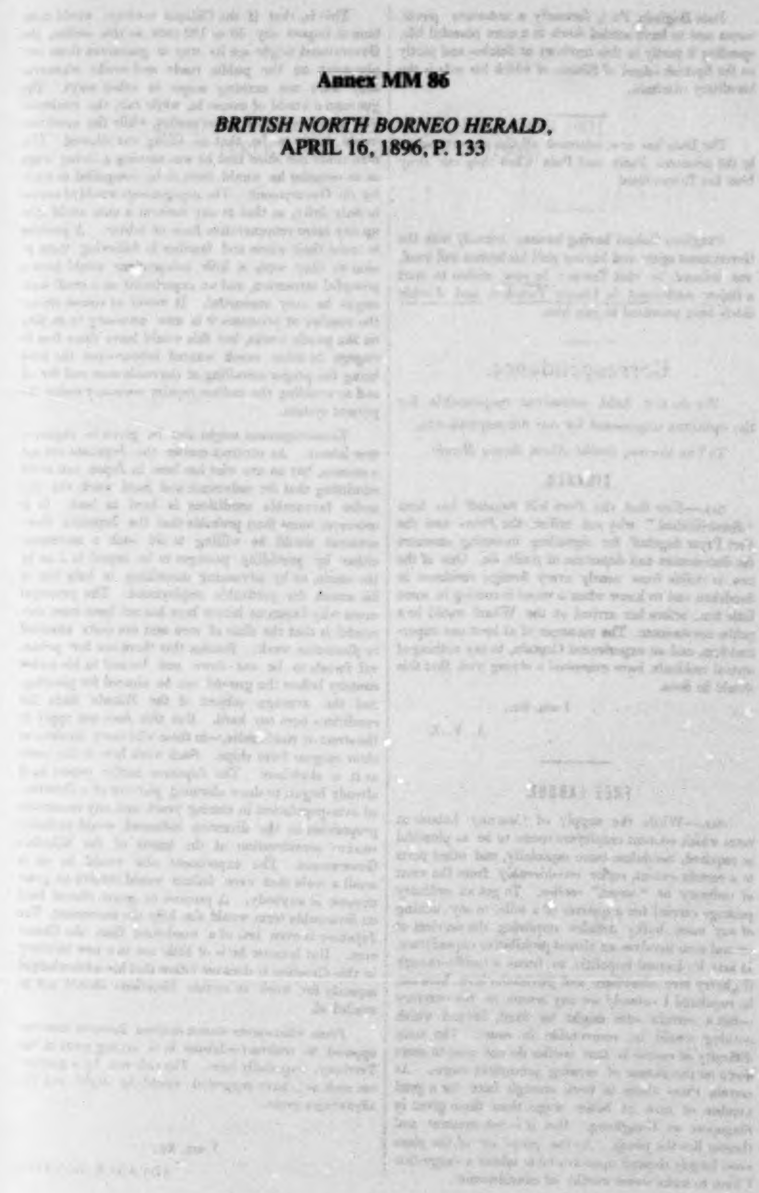

Dato Bagiuda Pu ½, formerly a notorious pirate, seems now to have settled down to a more peaceful life, spending it partly in this territory at Sebuku and partly on the Spanish island of Sibutu of which his wife is the hereditary chieftain.

* * *

The Dato has now returned all the property taken by the prisoners Basik and Pula when they ran away from the Tawao Gaol.

* * *

Panglima Lahari having become friendly with the Government again and having paid his broken bail bond, was induced to visit Tawao: he now wishes to start a Bajow settlement in Trusan Treader, and 5 other chiefs have promised to join him.

Correspondence.

We do not hold ourselves responsible for the opinions expressed by our correspondents.

To The Editor, *British North Borneo Herald.*

SIGNALS.

Sir,—Now that the Bern hill flagstaff has been "disestablished," why not utilise the *Petrel* and the Fort Pryer flagstaff for signalling incoming steamers the distribution and departure of mails, &c. One of the two is visible from nearly every foreign residence in Sandakan and to know when a vessel is coming in some little time before her arrival at the Wharf would be a public convenience. The manager of at least one important firm, and an experienced Captain, to say nothing of several residents, have expressed a strong wish that this should be done.

I am, &c.,

A. Y. Z.

FREE LABOUR.

Sir,—While the supply of Contract Labour at rates which content employers seems to be as plentiful as required, Sandakan more especially, and other parts to a certain extent, suffer considerably from the want of ordinary or "street" coolies. To get an ordinary package carried for a quarter of a mile, to say nothing of any more bulky articles requiring the services of several men involves an almost prohibitive expenditure. It may be deemed impolitic to frame a tariff—though if gharry hire elsewhere and jinricksha hire here can be regulated I scarcely see any reason to the contrary—but a certain sum might be fixed, beyond which nothing would be recoverable in court. The main difficulty of course is that coolies do not care to come down on the chance of earning precarious wages. At certain times there is work enough here for a good number of men at better wages than those given in Singapore or Hongkong. But it is not constant and therein lies the pinch. As the prosperity of the place must largely depend upon available labour a suggestion I have to make seems worthy of consideration.

This is, that if the Chinese towkays would combine to import say 50 or 100 men as free coolies, the Government might see its way to guarantee them employment on the public roads and works whenever they were not earning wages in other ways. The guarantee would of course be, while fair, the minimum they could expect to get as coolies, while the condition would have to be that no idling was allowed. If a man could not show that he was earning a living wage as an outsider he would have to be compelled to work for the Government. The engagements would of course be only daily, so that at any moment a man could take up any more remunerative form of labour. A promise to assist their wives and families in following them as soon as they were a little independent would form a powerful attraction, and an experiment on a small scale might be very successful. It would of course reduce the number of prisoners it is now necessary to employ on the public works, but this would leave them free to engage in other much wanted labour—not the least being the proper metalling of the roads once and for all and so avoiding the endless repairs necessary under the present system.

Encouragement might also be given to Japanese free labour. As contract coolies the Japanese are not a success, but no one who has been in Japan can avoid admitting that for endurance and hard work the Jap under favourable conditions is hard to beat. It is moreover more than probable that the Japanese Government would be willing to aid such a movement either by providing passages to be repaid in time by the coolie, or by advancing something to help him in his search for profitable employment. The principal cause why Japanese labour here has not been more successful is that the class of men sent are quite unsuited to plantation work. Besides this there are few primeval forests to be cut down and burned in his native country before the ground can be cleared for planting, and the average subject of the Mikado finds the conditions here too hard. But this does not apply to the street or road coolie,—to those who carry burdens or clear cargoes from ships. Such work here is the same as it is elsewhere. The Japanese native papers have already begun to draw alarming pictures of a threatened over-population in coming years, and any reasonable proposition in the direction indicated would probably receive consideration at the hands of the Mikado's Government. The experiment also would be on so small a scale that even failure would involve no great expense to anybody. A promise to grant *cleared* land on favourable term would also help the movement. The Japanese is even less of a woodsman than the Chinaman. But because he is of little use to a new territory in this direction it does not follow that his acknowledged capacity for work in certain directions should not be availed of.

From whatsoever source derived however free—as opposed to contract—labour is a crying want in the Territory, especially here. The risk run by a guarantee such as I have suggested would be slight and the advantages great.

I am, &c.,

ADVANCE BORNEO.

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BOATS AND FISHERIES PROCLAMATION 1901
(PROCLAMATION XVIII OF 1901)

British North Borneo

THE

OFFICIAL GAZETTE.

PUBLISHED BY AUTHORITY.

NO. 21.] SANDAKAN, MONDAY 11th NOVEMBER, 1901. [VOL. XII.

Subject to the approval of the Court of Directors the following Proclamations and Notifications are, by command of His Excellency the Governor, published for general information.

H. W. L. BUNBURY
Secretary to the Governor

PROCLAMATION XVIII. OF 1901.

A Proclamation to amend the law relating to the registration of Boats and Fisheries.

ERNEST WOODFORD BIRCH,
Governor.

By His Excellency ERNEST WOODFORD BIRCH, Companion of the Most Distinguished Order of St. Michael and St. George, Governor and Commander-in-Chief of the State of North Borneo and its Dependencies.

[Sandakan, 8th November 1901.]

Whereas it is expedient to amend the law which provides for the registration of Boats and the regulation of Kelongs.

It is hereby enacted by the Governor as follows:—

1. This Proclamation may be cited as the "Boats and Fisheries Proclamation 1901" and shall came into operation on the 1st of January, 1902. Short title and commencement.

2. "Boat" includes all sailing or rowing boats enumerated in Schedule B. Interpretation.

"Harbour Master" in all Ports except Sandakan means the District Officer.

"Registrar" means the official deputed by the Harbour Master to conduct the registration of tongkangs and boats.

"Tongkang" includes all sailing vessels enumerated in Schedule A.

3. The following Proclamation and Notifications are hereby repealed.

Proclamation II. of 1892.
Notification 24 of 1892.
„ 32 „ 1896.
„ 33 „ 1896.
„ 52 „ 1899.

Sections. 5, from the word "in" to the end, 6, 7, 8, 9, 11, 12, 13 and 14 and schedule B. of the Proclamation dated 18th September, 1892 (Flags,) Section 2 of Proclamation XII. of 1890.

Tongkangs.

Licenses to be granted to tongkangs to ply between the State and neighbouring ports.

4. It shall be lawful for the Harbour Master to grant to the owner of any tongkang a license authorising such tongkang to ply between this State and neighbouring ports or between ports of this State during such period and subject to such conditions as shall be endorsed on or contained in such license and, on a license being so granted for any tongkang, the master thereof shall cause the number of the license to be painted or exhibited (to the satisfaction of the Harbour Master) on each bow and on the mainsail.

Register of licenses to be kept.

5. A register of all licenses granted under this Proclamation shall be kept by the Harbour Master and shall contain the following particulars:—

The name of the licensee, the name, rig and tonnage of the tongkang, the date of the license and such other particulars as may be required.

Change of name of tongkang to be noted on license.

6. It shall not be lawful, without due notification thereof, to change the name of any tongkang for which a license shall have been granted as aforesaid and every change of name of such tongkang shall be endorsed on or contained in the license and shall be entered in the register aforesaid.

7. The owner of every tongkang who is convicted of neglecting to register the same, of omitting to paint the registered number as required in section 4 or of neglecting to notify a change of name under section 6 shall be liable to a fine not exceeding fifty dollars.

Boats.

Boats for passengers, cargo and fishing, to be licensed.

8. No boats shall ply for hire or be hired for the conveyance of passengers or cargo and no boats shall be used for fishing in any waters of the State without a license to be obtained as hereinafter provided.

Penalty for using unlicensed boats.

9. The owner of any boat, using or permitting the use of the same for the hired conveyance of passengers or cargo or for fishing without being licensed under this Proclamation, or without having complied with all the provisions of this Proclamation shall be liable on conviction to a fine which may extend to fifty dollars.

Registry, how made.

10. The owner of every boat used for the conveyance of passengers or cargo or for fishing shall apply to the Harbour Master who shall examine the boat and if he thinks it sea-worthy and suitable for the conveyance of passengers or cargo or for fishing, shall cause the boat to be registered as a passenger or cargo or fishing boat and grant a license for the same. The following particulars shall be entered on the register:—

Particulars.

(i.) The name and residence of the owner and of the person to be in charge of the boat as manager;
(ii.) The number of crew to be employed;
(iii.) The number of persons the boat is to be permitted to carry, in addition to the crew, if a passenger boat;
(iv.) The capacity of the boat for carriage of cargo;
(v.) The number of the register, which shall be the number of the boat.

Separate register.

Separate registers shall be kept for passenger, cargo and fishing boats.

Fees for registration.

11. (i.) A fee shall be chargeable yearly for registering boats, as prescribed in Schedules A and B.

Registration and licenses to be in force for a year.

(ii.) The registration and license shall be in force till the end of the current year, and thereafter shall be renewed yearly and every change of owner and of manager shall be reported to the Registrar, who shall note the same in the register. Any owner or manager failing to report such change shall be liable on conviction to a fine which may extend to twenty five dollars.

12. The persons whose names shall appear in the said register shall, for all the purposes of this Proclamation and of Police and prevention of offences, be considered the owners and managers, respectively. Registered owner and manager.

13. The owner of every registered boat, before he receives a certificate that his boat is registered, shall cause the number of the boat to be painted or marked, in such legible and durable manner as the Harbour Master may direct, on each side near the fore-part of the boat, in figures of such size and character and in such positions, as shall be directed. In the case of sailing boats the number shall also be painted on the mainsail. Number to be [illegible].

General.

14. The Registrar shall deliver if so requested to the owner of every registered tongkang or boat a certificate of her registration, setting out the number in the register the names of the owner and manager, the number of the crew to be employed, the number of passengers to be carried, if a passenger boat, and the quantity of cargo, if a cargo boat, estimated in pikuls or coyans. Registrar to deliver a certificate.

15. It shall be lawful for the Harbour Master to cancel any license issued under this Proclamation. License may be cancelled.

16. It shall be lawful for the Governor to make rules for the fares to be paid for the use of cargo or passenger boats, or for both, in the State; also for the management and working of passenger, cargo and fishing boats; as to the sea worthiness of the boats, the number of passengers and quantity of cargo to be allowed, the number of men in the boats as boatmen, the managers or persons to be in charge of boats, lights to be used at night in the ports and elsewhere in the waters of the State; articles left in boats, reports of accidents, and generally for providing for the safety of persons and the property carried in such boats, and for preventing the commission of offences by persons employed in or being in such boats. Governor may make rules for the management, boats,

17. Every person refusing without reasonable excuse to let for hire his cargo or passenger boat registered under this Proclamation, on tender of the amount of hire prescribed in any rules in that behalf, shall be liable on conviction to a fine which may extend to twenty five dollars. Persons refusing to let boats for hire. Penalty.

Fisheries.

18. (i.) No person shall erect, maintain or use any kind of fishing stake or shall set any floating net within the waters of the State before a license to do so has been obtained from the Harbour Master. [illegible] Provisions as to methods of fishing and licenses

(ii.) No Harbour Master shall issue a license in any case where it may seem to him that the stakes or nets will interfere with navigation, or with stakes or nets for which a license already exists, and he may refuse licenses to any persons who have been previously convicted of any offence under this Proclamation.

(iii.) Every license shall remain in force for six months from the date of issue and the application for renewal must be made at least a fortnight before the expiration of the current license.

(iv.) With the consent of the Harbour Master any license may be transferred without charge at any time during its currency. Any license transferred without such consent shall be forfeited.

(v.) The Harbour Master shall record every issue and transfer of licenses in a register and shall provide the licensee with a copy thereof.

(vi.) Inshore fishing stakes shall not be in more than two fathoms at low-water spring-tides and shall be at least 150 fathoms away from any other stakes, and shall not exceed 70 fathoms in length.

(vii.) Deep-water fishing stakes shall not be in more than three fathoms at low-water spring-tides, and shall be at least 150 fathoms away from any other stakes: they shall not exceed 110 fathoms in length and shall exhibit every night from sunset to sunrise a bright red light visible at least one mile in every direction.

(viii.) Owners of both deep-water and inshore fishing stakes shall, as soon as the frame-work is set up, erect and maintain on them in a conspicuous place facing sea-wards and at an elevation of at least six feet above high-water a board bearing the number allotted to them by the Registrar.

(ix.) All fishermen must carry their licenses with them to the fishing grounds and produce them when called upon to do so by any Government Officer.

(x.) With the exception of licenses for fixed methods of fishing, possessors of licenses to fish in one district are entitled to fish in another provided that they carry their licenses with them.

(xi.) Every fishing license shal' bear the number of the boat license as well.

Provisions as to methods of fishing.

19. (i.) No person shall use without special license any method of fishing other than those enumerated in Schedule C. The license fees shall be those prescribed in the Schedule.

(ii.) The Governor may, from time to time, by Notification published in the *Gazette*, authorise the use of any other method of fishing as he may think fit and may fix the license fees therefor and may make rules for the regulation thereof. The Governor may make and when made vary or rescind rules for the regulation of al methods of fishing and for the fixing of fees payable in respect thereof.

Provisions as to removal of fishing stakes.

20. (i.) The owner of any fishing stakes or floating nets shall, on being served with a notice from the Harbour Master, remove the whole of them within 15 days whenever they are out of use.

(ii.) No person shall remove or alter the position of a fishing stake or floating net without authority to do so from the Harbour Master.

(iii.) When any fishing stake is temporarily removed, in whole or in part the owner must maintain his number board on the spot as long as the license is in force.

21. Any person committing any breach of any of the provisions of the last three preceding sections shall be liable upon conviction to a fine which may exceed to fifty dollars.

Exemption of certain fishing.

22. Fishing on a small scale for personal consumption and not for sale is exempt from the provisions of this Proclamation.

Schedule A.

Chinese Junk Chinese Tongkang Two masted native boats	$5 per annum.

Schedule B.

Sapit Lumba All native house boats All native cargo boats	$3 per annum.
Gobang Pakerangan Dapang	$2 per annum.
Small Gobang Lipa lipa All boats exceeding 18 feet in length	$1 per annum.

Schedule C.

Kelong	—	$2·50	half-yearly.
Blat	—	$2·00	
Rantau	—	$2·00	
Pukat	—	$2·50	
Selambau	—	$1·00	
Rambat	—	50	

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cannot say at this present moment. All that I can assure you is that the question of the fall in the dollar is engaging the attention of the Court.

The Chairman has already referred to the lamentable death of a very promising young officer, Mr. Atkinson. I may say that otherwise we have been very lucky with our staff during the year. They have done a lot of good work, and we have a great many promising young men, who, perhaps, may not be all Atkinsons, but who will worthily represent the old traditions of the English gentleman when engaged in governing natives in the Far East. I think the Court may congratulate itself, and the Company too, on the very efficient servants we have in that country. (Hear, hear.) I thank you, Gentlemen, for your vote of thanks.

Mr. Hildyard: I should like to say something, because I always do. There is nothing to say, and that is why I attempt to say it. I am equally sorry with all other Shareholders that the dollar has fallen, but it is not altogether against the Company, because all those persons who are paying money in the country—and we want more of them certainly—are getting some advantage by the lower dollar, because the cost of their labour is less.

I should like just to thank all those Shareholders who have responded to a circular which Sir Charles Jessel sent to them with myself and the other Directors about the cigars. I believe the Shareholders are a little at sea about these cigars. We are the only persons who are selling cigars under the guarantee of the Government. There have been many misleading advertisements, even in papers, which should have been kept out of them. I have to thank a great many people for orders, but if the Shareholders generally knew what a vast benefit to them, as Shareholders in the parent Company, would accrue from their orders, I think a large number would send for our cigars. Some men say they never smoke—perhaps they miss a great privilege—I do not know; but then I do know, that there is not a single Shareholder in this Company, whoever he may be, but some of his friends smoke, and what better can he do than to say, "I am a Shareholder in one of the best Companies in London"—also, of course, I need not say that—but there it is—"and the cigars sold under its guarantee are the best in London, and the more you buy the more tobacco will be grown in British North Borneo." (Cheers) Please note the address: The North Borneo State Cigar Syndicate 20, Leadenhall Street, London, E.C.

Mr. Gibson: I am sending out little packets of these cigars to my friends with the price attached, to ask their opinion upon them. (Cheers.)

Mr. James Williams: Following Mr. Hildyard, I am a small Shareholder in the Company; but I should like to point out to the Shareholders present that immediately after the meeting which was held this time last year, somebody started a correspondence in the *Financial Times*. I read the first letter, which was signed under the *nom de plume*, I believe, of "A Dissatisfied Shareholder." From my small point of view, I did have the pluck to write to the *Financial Times*, explaining to all who might have read the previous letter that they had an opportunity at the meeting of asking any questions which, no doubt, the Chairman would willingly answer, and I was very much gratified to see that a gentleman, who, I believe, is one of the greatest friends of the Company, Mr. Hildyard, also wrote a letter to the *Financial Times*. And some time afterwards there was a letter from somebody at Singapore. But I really believe that the Shareholders have one of the most capable Boards in the City of London, and I am proud, from my point of view, to be a small Shareholder in the Company. If there is any lady or gentleman who is dissatisfied with the Company, and thinks there is something wrong in it, if they ask a question or two upon what they are dissatisfied about I am sure they would get a prompt and satisfactory reply. (Hear, hear.)

The proceedings then terminated.

OMADAL.

The Bajaus' Necropolis.

(An Article for Home Consumption.)

The beautiful country lying around Semporna, the little Government Station dominating other smaller and less accessible *kampongs* or villages on the South East Coast of British North Borneo all peopled by the same tribe, is the home of the once, and in a small degree still, lawless Sea-Bajau or Gypsy. The Bajau country may be said to lie within a square formed by Latitudes 4° and 5° North and Longitudes 118° and 119° East. The most northerly *kampong* is Silam which the Sea-Bajau proper but rarely visits except to bring along sea produce such as bêche-de-mer or trepang, for he is cautious and wary and timorous of the Government which has an agent in the shape of a paid chief here: the most easterly and southerly boundary of the Bajau country is the island of Danawan where the people have a chief who is expected to report himself to the District Officer of Tawau when called upon to do so: there is no westerly boundary to this District of islands and reefs for westward lies the mainland of British North Borneo on which the Bajau can never be induced to settle for he is fearful of being entrapped before he can take to his boats, and besides his business is not on shore which has no attractions for him but amongst the islands and reefs that abound in fish the object and reason of his existence. In the very centre of the square so defined is Semporna which is a small *kampong* of some 20 or 30 Bajau huts containing from 100 to 150 inhabitants not including children who swarm in confusing numbers defying accurate enumeration and genealogical investigation. The chief of the Bajaus, Panglima Udang by name, lives here, and a Government clerk keeps his eyes and ears open in quest of boats without licences, and information that will lead to the capture of this or that wrong-doer, often a murderer, in which duties he is assisted by a resident batch of Sikh police whose pluck and loyalty to Government render them more than a match for the Bajaus who, though individually a desperate lot, for the most part seldom fight against any odds or combine in aggressive numbers.

The scenery around Semporna is very beautiful. Opposite lies the wooded island of Bum Bum at the back of which the Bajaus anchor their floating villages. In the far distance behind Bum Bum loom the two peaks of Pulau Gaia Island a mass of rock that rises straight out of the sea to a height of 2,000 feet, odd. To the south is Trusan Treacher a deep channel running like a river between Bum Bum and the mainland on the northern entrance to which Semporna is situated. Northwards in the direction of Silam the coast is studded with numberless islands from the great Timbun Mata to little nameless cays without even a shrub on them. But we are wandering from our subject and the home of the Bajaus which is Omadal.

To reach Omadal which is an island to the south-east of Bum Bum island, the easiest and most convenient way is by launch from Semporna. The Government has recently purchased a fine launch in the s.s. [illegible] a wise precaution without which the District cannot be adequately governed and it is by means of a trip in her that we are are enabled to put before our readers, those at home more especially, a short account of the official headquarters which is also the tribal burial-place of the wild Sea-Bajau a race of meagre unknown to the man in the street which is fast dying out because the days of piracy are over in Borneo. For it is by acts of piracy alone that the Bajau seeks to eke out an existence sufficient to encourage population: the means being removed and himself lacking all sense of industry and thrift the gradual extermination of the Sea-Bajau is a matter of certainty and time.

On the occasion we are now describing an early start was made and we were shortly skirting the north coast of Bum Bum island in sight of Gulam Gulam or, to be correct, the spot where that village used to be, for a year ago, Mr. Molyneux, the District Officer of Tawau, who handles these lawless subjects of the Government with much tact and courage, had occasion, owing to the disloyalty of Panglima Lakasi its chief, to burn the place down. Next appeared Egang Egang and Punto Punto, the Bajau seems fond of reduplication both in matters of crime and nomenclature, and presently the island of Omadal came into sight. Every village in Sea-Bajau-dom is unapproachable by reason of broad stretches of coral reef that no steam-vessel dare venture over: this physiographical condition which is a feature peculiar to all the islands around Bum Bum suits the Bajau who thereby has less to fear from pursuit by vessels of the *Petrel* type the latter being the Government steam-yacht which, by reason of its speed and a tradition, purely imaginative, that represents it to be full of armed men, is greatly respected in close proximity by the Bajau people.

As we neared Omadal, the edge of the reef came into view and the anchor was let go in deep water, the shore being reached by a short pull in a *sapit*, or species of native craft, over sparkling water reflecting the most exquisite shades of purple, mauve, blue and bright green as it became shallower and shallower. The shore is bordered by a fringe of dazzling white sand and beyond the reach of the highest tide grows a covering of rank grass and scrub through which are riddled native tracks leading to different parts of the island. The first object that strikes the visitor to Omadal is the cemetery which can be seen some distance before the island is approached. A truly wonderful tribute to savage art is this cluster of grave-stones and sepulchral monuments mostly of wood, carved with a degree of fineness, symmetry and artistic design worthy of a modern studio and far more deserving of admiration for here we have inherent art and there but imitation often base and inartistic. Monumental architecture is perhaps the most ancient exemplification of art, being characteristic of the Egyptians the earliest epoch and the first human point in whose history is placed at 5004 B.C. This fact supplies the student with food for genuine reflection when confronted by a rude but singularly artistic form of art and the intelligent visitor to Omadal cannot but be struck with feelings of astonishment and mute admiration at the sight of this wonderful grave-yard and its beautiful carvings. Remember the Bajau—a wild, uncivilised, blood-thirsty savage, living a hand to mouth existence barren of incident, eked out for the most part of the year in a narrow *sapit*, always on the look-out for plunder, reckless of life, knowing no customs save those in connexion with marriage and death, observing no law except the one rule to skedaddle when a Government agent comes along,—and then cast your eyes on this solemn array of tombs and tomb-stones and surely the contrast furnishes a query the answer to which like that to so many other ethnological problems is beyond human ken. Of the carvings themselves there is not much to be said by way of description for a single acanthus-like floriation is the style of carving running through all of them with more or less variation. But those that are very elaborate in design are beautiful works of art indicating wonderful symmetry and deft manipulation while all are worthy of a "place" at any civilised art exhibition. Some are mere stakes with carved heads four or five feet in height, while others are heavy stone slabs the carving of which must have presented peculiar difficulties of workmanship. A strange feature about this cemetery is an erection, there are several of them, in shape like a pagoda, consisting of a pile of umbrellas of a brilliant yellow colour placed one over another about half a foot apart and decreasing in size from bottom to top. This design of monument has doubtless been imported from Mecca by the Hadjis, for even the Bajau tribe contributes it's quota of 'pious' men who have gone on a pilgrimage and returned full-blown 'Hadjis.' At the time we visited Omadal a funeral was about to take place and the corpse lay in a pavilion of white cloth bearing a strange floral device embroidered in red, enshrined and surrounded by the bed clothes that covered the living body, with its head resting on the now superfluous pillow. Spread out on the fore-ground were rows of platters filled with rice, salt and vegetables set at the disposal of friends of the deceased and others who had helped to bring his body over from the distant isle of Danawan.

Turning our backs reluctantly on the cemetery we took a path through the scrub to the other side of the island where lay the little village—a village of trustees in whose keeping rests the sacred burial ground of the Bajaus. The island narrows to a point where the site of the small village is chosen doubtless for strategical purposes for the Bajau lives by strategy and places his *kampong* in such a position that escape in time of danger may be easily effected. From this *tanjong* or spit an enemy approaching from any point of the compass can be observed long before he has time to make a rush on the island, and it is a fact that when the present District Officer made a surprise visit there about a year ago in search of weapons, not one was found though it is certain that every male member was armed, and all the womenfolk had disappeared in a mysterious manner "leaving the decks cleared for action." It is not unlikely that had the D. O. shown fight there must have ensued an ugly rush for the weapons concealed in the brush-wood.

Omadal is the only vulnerable point in the Bajau's sympathy and the storming of Omadal in 1880 by H.M.S. *Zephyr* was a punishment that the tribe have never forgotten.

When they are not carving head-stones the men are mostly engaged in making boats, and very strong and sea-worthy are the fleet *sapits* built at Omadal. We saw some twenty feet in length and big enough to carry five or six families. They are built of the same beautiful reddish yellow wood that lends itself so readily to the carver's art—a wood that grows in abundance on the larger islands in Darvel Bay.

Returning by a different route to Semporna we passed between two extensive reefs through a channel that the largest vessel in His Majesty's Navy could safely navigate and when opposite Kubang on Bum Bum island we came in view of a considerable floating village of Bajaus known to harbour at least half a dozen very slippery customers wanted by Government but unobtainable for miles of reef to which they fly whenever a steamer appears to them to be going out of her usual course. When returning up Trusan Treacher the tide was low and the great Beaufort reef was dotted here and there with small groups of boats between which numbers of Bajaus were to be seen at their daily occupation fishing and spearing for fish and gathering beche-de-mer to exchange at Semporna for rice and cloth. The appearance of these boats and fishermen on the edge of the horizon which was but the middle of an enormous reef many square miles in extent was rendered weird by the mirage which is ever present in these sunny waters. To approach sufficiently close to get a shot at these people supposing such action was rendered necessary would be impossible except with a maxim gun, for the Bajau knows every square yard of the reef and can make good his escape at the expense of his pursuers whose steps are dogged by care for the safety of their boat and of themselves, for it is not a pleasant thought by any means when sailing in these waters that if one's boat got stranded or wrecked on a pinnacle of reef the Bajaus, if there were any in sight, would take advantage of such a predicament and surround the unfortunate intruder whose life would then be worth less than any single Bajau's spear.

The Bajau is gradually but surely dying out and another fifty years hence may witness his extinction. The B. N. B. Government has always harassed him in its endeavours to establish law and order in the District and during the last few years since the Americans occupied the Philippines and adjoining islands the Bajau is less willing to clear out of Borneo Territory and hide in Sibutu, an island until recently belonging to the Spanish, than he used to be. Sandwiched between two civilising communities whose traditions will permit of no murder, rapine and lawlessness the Bajau finds himself compelled either to face a new state of existence or to continue running from island to island and reef to reef to the slow extermination of his tribe. The infant mortality amongst the Bajaus is a powerful factor for evil in this connexion, and starvation, oyster-poisoning and geophagism do the rest.

As we sailed up Trusan Treacher and rejoined the Government steam yacht *Petrel* the setting sun's rays lighting up the peaks of Pulau Gaia over at the back of Bum Bum Island which we had now circumnavigated was a sight not to be forgotten. This beautiful setting to a picture of savage life is wasted on the Bajau who lives as if in obedience to the one law of existence, but the Bajau country is not the only one of which it has been ingeniously written that 'only man is vile.'

On our return to civilisation at Lahad Datu the first news that greeted us was conveyed by the Sergeant of Constabulary in charge who told us of two Chinese having been brought over in a mutilated condition, both unconscious, discovered in a lonely shop on Timbun Mata where they had been attacked by Bajaus. The Bajau again—and so on till the end of the chapter. Whenever a deed of violence is committed in the Darvel Bay District the Bajau may pretty surely be adjudged the perpetrator and it is for very good reasons that a European never trusts a Bajau because the balance of reason and homicidal mania is so uncertain that opportunity once given would inevitably decide in favour of the latter tendency—but the European generally sees to it that that opportunity is never allowed.

THE N. D. L.

Passenger Accommodation.

On the occasion of the two N. D. L. steamers *Kudat* and *Trienggano* undergoing their recent docking process, at Singapore, in accordance with the Board of Trade Regulations, advantage was taken of the opportunity, this time, to provide additional passenger accommodation, of which the first class has been rather limited hitherto. Both vessels are equipped now with a spacious and well-constructed deck cabin upon the poop. Altogether an excellent improvement.

Passenger Arrivals.

The following passengers arrived here on the 26th of last month by the s.s. *Kudat*, which appeared quite renovated after her general overhaul:—Colonel and Mrs. Flint, who are staying at "Sunningdale" as the guests of Capt. W. Raffles Flint, a brother to Col. Flint: Mr. C. J. Skinner, the Acting Judicial Commissioner, who, with Mr. A. T. Wardrop, conducted the Kudat Sessions: and Mr. E. Melvin, the new Gaoler. There also returned by this vessel Messrs. G. J. Altham, L. Lovegrove and W. D. Jupp.

Notes Occasional.

Mr. A. L. Keyser, our former Consul for Brunei, has been appointed H. M.'s Consul for the provinces of Cadiz, Huelva, Sevilla and Cordova, to reside at Cadiz.

H. M. The German Emperor's Birthday was celebrated on the 27th ult. by an official dinner given by Mr. Vice-Consul Lorentzen at his residence, Seramble House.

Tampan, the Sulu prisoner, an account of whose escape from Tawau Gaol is given on another page, is now securely locked up in the Central Gaol, Sandakan, awaiting trial.

At Kudat the *Kudat* was relieved of her Sandakan mails by the *Natuna*, which arrived from Ilo Ilo via that port on the 26th ult., a day in advance of the Singapore boat.

Colonel Townshend, who at one time commanded the 2nd Life Guards, intends visiting British North Borneo, shortly. The Colonel has the reputation of being a great traveller.

Mr. A. R. Martin, District Officer, Kotabelud, who has had a long spell of jungle work to the injury of his health, is coming to Sandakan shortly, for six months and will be in charge of the Land Office.

From details supplied by cable, the Delhi Durbar appears to have been a most magnificent and imposing spectacle. Everything connected with the ceremony is said to have gone off with superb precision and effect.

The following telegram received from the Governor by the Officer-in-Charge at Sandakan will be heartily welcomed by all the community:—

Rice duty remitted till further orders.

The spectacle of "the old moon in the arms of the new" was seen to great advantage on the evening of the 1st inst., the mountains on the shaded portion of our only satellite being quite distinguishable in their general configuration.

"The Chinese New Year passed off quietly enough," says the Inspector of Police, though there is no reason to construe his words as meaning that the spluttering fire-works, the clamorous cymbals and the persuasive tom-toms made less noise than on any other occasion.

We may shortly expect a visit from a Squadron composed of His Majesty's two first-class battleships *Glory* and *Goliath*—sisterships, H.M.S. *Talbot*, second-class cruiser and the *Alacrity* which has been here before. Labuan will probably be the port of call in B. N. Borneo, but it is stated in official circles that H. M. S. *Alacrity* is coming round to Sandakan, bringing the Admiral of the China Station, Sir Cyprian Bridge, and His Excellency the Governor.

The S.S. "Borneo" (N.D.L.)

The Nordd. Lloyd steamer *Borneo*, recently constructed at Lubeck, has made her trial trip. This vessel, intended for the Indo-Chinese service of the Lloyd, is of 2,168 tons nett, carrying 3,300 tons dead weight and 1,200 h.p. She achieved 11 knots with a relative coal consumption of 20 tons a day. She is fitted for transport of timber between Sandakan and Hongkong, has accommodation suitable to the tropics for 10 first-class passengers, and is lighted throughout with electricity.

Annex MM 89

BRITISH NORTH BORNEO HERALD, MARCH 16, 1909, P. 63

EAST COAST NOTES.

We deeply regret to announce the death of Mr. S. F. Belford, an Assistant on the Segama Hilir Estate who died from blackwater fever on the 12th February after only a few days illness.

The German gun-boat *Tiger*, (Captain Ackermann) arrived on a visit on the 16th ult. at 4 p.m. After an exchange of visits the Captain and one or two of the Officers of the ship dined at the *Residency* with Mr. *Fraser*.

The Prince of Hesse was on board in the capacity of Junior Lieutenant or Midshipman.

On the 17th there was a dinner given by Mr. Arensma for the *Tiger* and a hunting party organised the next morning which unfortunately drew blank though traces of both deer and tembadau were plentiful, deer being heard crushing through the jungle pursued by dogs.

A very pleasant and jolly evening was spent on the *Tiger* afterwards which finished up with dancing, the ship's band, supported by the Officers, playing throughout the evening.

The *Tiger* sailed on Friday afternoon for Manila.

◆

The Resident, Mr. Fraser has been fairly constantly on the move during the fortnight, covering almost the whole coast line of his district in s. l. *Cheviot*. Steps are being taken towards calling in the outlying Bajau villages, and it is hoped to collect them all along Trusan Treacher, in the neighbourhood of Simporna. The necessity for this centralisation has come about owing to the presence of wandering bands of "bad-hat" natives from the neighbouring American islands of the Tawi Tawi group, who, finding American supervision too strict, periodically come over and keep their hands in with a little piracy on our coast. Besides finding shelter and a certain amount of sympathy among our own outlying Bajau villages, the temptation to loot the unprotected Chinese shops in these villages has, on more than one occasion, proved too strong for them. As it is manifestly out of the question to establish a police post at every village where the ubiquitous Chinaman sets up his shop, the only alternative has been to remove the traders to places where the Government is in a position to afford them protection.

In time Trusan Treacher should become a flourishing settlement with Simporna as its centre, and Chinese gardens covering the western side of Bum Bum Island.

Reports of the pirate Jikiri being in the neighbourhood occasioned some consternation among the inhabitants of Simporna during the first week of March. The rumours however, proved to be without much foundation and the presence of the Asst. D. O. Mr. Prevost with some police from Lahad Datu reassured the Chinese.

The Subscription to the *British North Borneo Herald* is $2.50, and to the *British North Borneo Gazette* $0.80 per annum. Payments can be made to the Superintendent, Government Printing Office, Sandakan, and to our Agents as follows: Singapore and Hongkong $2.80; Madras, Calcutta, Kandy and Colombo. Rs 5; Australia and London, 6s.

JESSELTON NOTES.

H. E. returned from Sandakan by s.s. *Marudu* on Tuesday 9th March, accompanied by Mrs. Gueritz and Mr. Turner, Judicial Commissioner.

◆

Considerable excitement was caused in the Town on the morning of Friday March 12th by the sudden determination of a buffalo to run 'amok.' Narrowly missing a Chinese woman, it caught a Sikh policeman who was attempting to stop it and bowled him over. To obviate the risk of further harm the beast was quickly despatched.

◆

Among the passengers from Singapore per s.s. *Darvel* on Friday 12th March were Mrs. Alex. Johnston and Mr. H. Hall.

◆

From the new Jesselton-Putatan road routes are being cut on to the lalang-covered hills bordering it, to ascertain the value of the 2,000 acres available there. It is to be hoped that the result may prove the suitability of the soil for rubber or other purposes.

◆

MINIATURE RANGE OPEN CHAMPIONSHIP 1909.

For a Trophy Presented by H. E. the Governor.

Monthly Scores and Aggregates.

NAME.		January.	February.	Total.
Mrs. Altman	...	24	26	50
" Scott Atkinson	...	24	24	48
" Bond	...	20	21	41
" McEaroe	...	*	*	—
Mr. Altman	...	22	25	47
" Aston	...	24	26	50
" Scott Atkinson	...	*	*	—
Captain Bond	...	25	23	48
Mr. Best	...	23	29	52
" Beyer	...	*	*	—
" Brackenbury	...	26	22	48
" Bunbury	...	*	25	—
" Clark	...	26	21	47
" Dale	...	5	29	34
" Dunlop	...	26	24	50
Major Harington	...	*	*	—
Mr. Holland	...	*	*	—
Major Holsaden	...	26	*	—
Mr. Irving	...	24	18	42
Dr. Macpherson	...	*	*	—
Mr. Newman	...	25	20	45
" Pearson	...	25	22	47
" Preston	...	23	*	—
" Skinner	...	20	*	—
" Smith	...	*	*	—
" Stokes	...	24	20	44
" Templeton	...	*	*	—
" Tompson	..	*	*	—
" Turner	..	*	*	—
" Wilson	..	25	29	54
" Woollett	..	27	27	54

*No target sent in.

The Honorary Secretary has informed us that in future the shoots need not be monthly. The highest aggregate of 12 shoots will win; but a competitor may shoot twice in one month if unable to shoot regularly.

Annex MM 90

CHART CONTAINING THE NAMES OF INDIGENOUS LEADERS OF THE EAST COAST OF NORTH BORNEO TAKEN FROM J.F. WARREN, *THE NORTH BORNEO CHARTERED COMPANY'S ADMINISTRATION OF THE BAJAU, 1878-1909*

Appendix I

INDIGENOUS LEADERS OF THE EAST COAST OF NORTH BORNEO

Political Leader	Ethnic Identity	Rank	Region/Territory	Village or Mooring Site	Year*
Datu Tumonggong Gumbah	Sulu	Native Magistrate	Darvel Bay	Silam Station (?)	1882
Maharajah Alani	Sulu	Native Magistrate	Darvel Bay	Silam Station	1894
Panglima Udang	Bajau	Native Magistrate	Darvel Bay	Semporna Town	1903
Hadji Mohammed Ansurudeen	Sulu	Headman	Sandakan Bay	Kampong Timbong	1878
Nakoda Meyer	Sulu	Headman	Sandakan Bay	Kampong Oopak	1878
Panglima Abdul Rahman	Bajau	Headman	Sandakan Bay	Kampong Oopak	1878
Emaum Jelanee	Bajau	Headman	Sandakan Bay	Kampong Oopak (?)	1878
Panglima Talad	Simunal Bajau	Headman	Sandakan Bay	Bokara Point	1892
Panglima Duping	Simunal Bajau	Headman	Sandakan Bay	Bokara Point	1892
Datu Kurunding	Illanun	Headman	Darvel Bay	Tungku	1892
Datu Baginda Puteh	Illanun	Headman	Darvel Bay	Mouth of Tungku R.	1892
Panglima Laut	Bajau	Headman	Darvel Bay	Silam Station	1884
Pangeran Amas	Eraan	Headman	Darvel Bay	Silam Station	1884
Datu Asiree	Sulu (?)	Headman	Darvel Bay	Silam Station	1884
Panglima Abdul Rahman	Sulu	Headman	Darvel Bay	Omaddal	1886
Maharajah Palawan Tawasil	Sulu	Headman	Darvel Bay	Omaddal (?)	1887
Ahtang	Bajau Laut	Headman	Darvel Bay	Omaddal	1892
Nakib Jani	Bajau	Headman	Darvel Bay	Omaddal	1894
Sailic	Bajau	Headman	Darvel Bay	Omaddal	1905
Panglima Basari	Bajau	Headman	Darvel Bay	Danawan	1899
Maharajah Mohammed	Sulu (?)	Headman	Darvel Bay	Danawan	1905

Appendix I (continued)

Indigenous Leaders

Political Leader	Ethnic Identity	Rank	Region/Territory	Village or Mooring Site	Year*
Emaum Sing Kalong	Bajau	Headman	Darvel Bay (Bum^2)	Pantow^2	1886
Maharajah Tambi	Sulu (?)	Headman	Darvel Bay (Bum^2)	Gosong Melanta	1886
Maharajah Kambulung	?	Headman	Darvel Bay (Bum^2)	Gosong Melanta	1910
O. K. K. Anggalum	Bajau	Headman	Darvel Bay (Bum^2)	Galam^2	1902
Maharajah Ekoh	?	Headman	Darvel Bay (Bum^2)	Galam^2	1910
Stia Barin	Bajau	Headman	Darvel Bay (Bum^2)	Egang^2	1899
Godong Mawalie	Bajau	Headman	Darvel Bay (Bum^2)	Bum^2	1910
Damsic	Bajau	Headman	Darvel Bay	Tatagan Island	1887
Dariene	Balignini	Headman	Darvel Bay	Tatagan Island	1887
Panglima Kaludin	Bajau	Headman	Darvel Bay	Tatagan Island	1903
Nakib Jani	Bajau	Headman	Darvel Bay	Menampilik Island	1904
Panglima Lohari	Bajau Laut (?)	Headman	Darvel Bay	Trusan Treacher	1896
Emaum Munsilman	Bajau Laut (?)	Headman	Darvel Bay	Pulau Tiga (?)	1905

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*Dates indicate first reference in the written records. It was common to have more than one headman in a village, often a Bajau and a Sulu.

Semporna 26.6.10.

Annex MM 91

LETTER FROM THE ASSISTANT DISTRICT OFFICER OF SEMPORNA TO THE RESIDENT OF EAST COAST, JUNE 26, 1910

From A.D.O to Resident E.C.

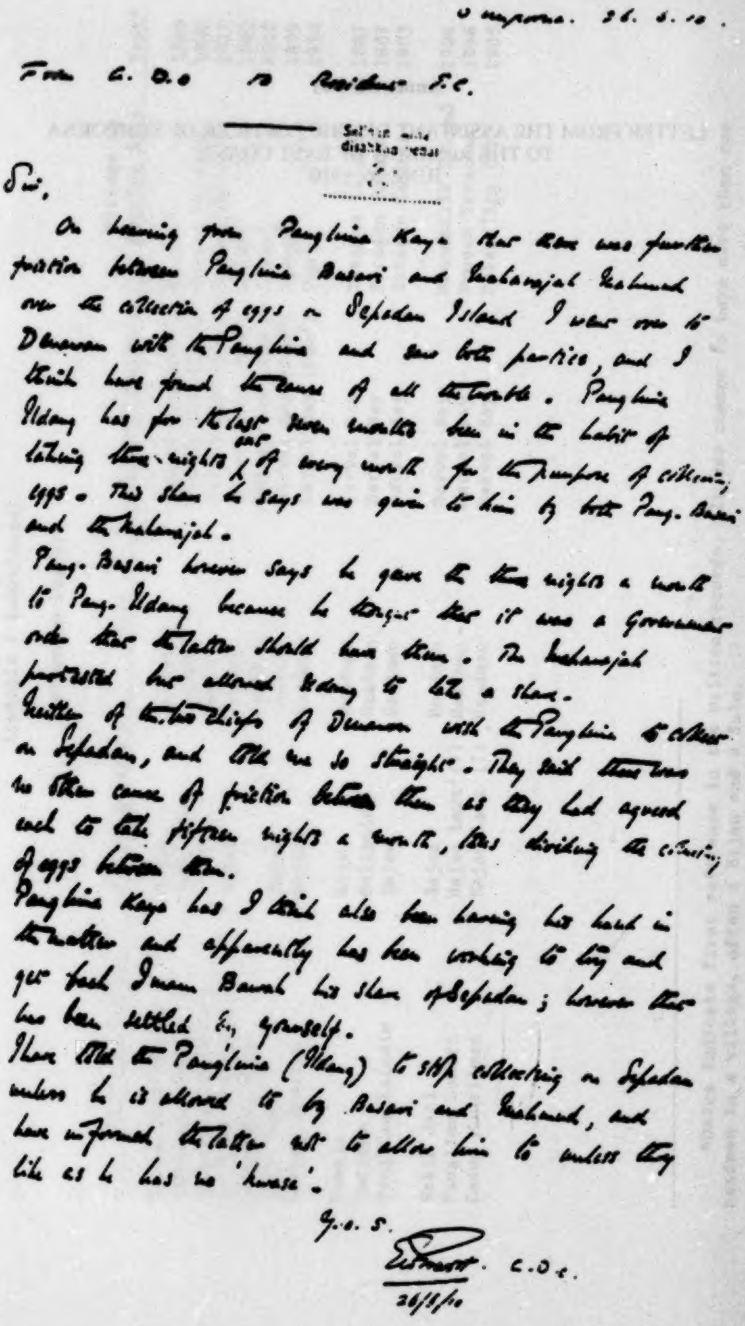
Sir,

Following [illegible] the former [illegible] between Panglima Buhari [illegible] the collection [illegible] on [illegible] Island [illegible] the cause of all [illegible] Panglima [illegible] been to the [illegible] purpose of collecting [illegible] Buhari and the Maharajah.

Pang Buhari however says he gave the three rights [illegible] because he thought that it was a Government Order that he [illegible] them. The Maharajah protested but afterwards agreed to take [illegible] of the two places [illegible] Panglima to collect on [illegible] so arrived. They said there was no other cause of friction between them as they had agreed each to take those rights [illegible] then [illegible] the collecting of [illegible]

Panglima [illegible] also [illegible] having his hand in the matter and [illegible] the rights of [illegible] however that has been settled by yourself.

I have told the Panglima [illegible] he is [illegible] to be Buhari and Maharajah [illegible] where they like as he has no 'kuasa'.



Semporna. 26. 5. 10.

From A. D. O to Resident E.C.

Salinan [illegible]
disahkan benar

Sir,

On learning from Panglima Kaya that there was further friction between Panglima Basari and Maharajah Mahmud over the collection of eggs on Sepadan Island I went over to Danawan with the Panglima and saw both parties, and I think have found the cause of all the trouble. Panglima Udang has for the last seven months been in the habit of taking three nights out of every month for the purpose of collecting eggs. This share he says was given to him by both Pang. Basari and the Maharajah.

Pang. Basari however says he gave the three nights a month to Pang. Udang because he thought that it was a Government order that the latter should have them. The Maharajah protested but allowed Udang to take a share.

Neither of the two chiefs of Danawan went with the Panglima to collect on Sepadan, and told me so straight. They said there was no other cause of friction between them as they had agreed each to take fifteen nights a month, thus dividing the collecting of eggs between them.

Panglima Kaya has I think also been having his hand in the matter and apparently has been working to try and get back Imam Bawah his share of Sepadan; however this has been settled by yourself.

I have told the Panglima (Udang) to stop collecting on Sepadan unless he is allowed to by Basari and Mahmud, and have informed the latter not to allow him to unless they like as he has no 'kuasa'.

Y.o.S.

A.D.O.

26/5/10

Sempoma 26.6.10

From A.D.O to Resident E.C

Sir,

On hearing from Panglima Kaya that there was further friction between Panglima Busari and Maharajah Mahmud over the collection of eggs on Sepadan Island I went over to Denawan with the Panglima and saw both parties, and I think have found the cause of all the trouble. Panglima Udang has for the last seven months been in the habit of taking three nights out of every month for the purpose of collecting eggs. This share he says was given to him by both Pang Busari and the Maharajah.

Pang Busari however says he gave the three nights a month to Pang Udang because he thought that it was a Government Order that the latter should have them. The Maharajah protested but allowed Udang to take a share. Neither of the two Chiefs of Derawan wish the Panglima to collect on Sepadan, and told me so straight. They said there was no other cause of friction between them as they had agreed each to take fifteen nights a month, thus dividing the collecting of eggs between them.

Panglima Kayu has I think also been having his hand in the matter and apparently has been working to try and get back Imam Bawah his share of Sepadan; however that has been settled by yourself.

I have told the Panglima (Udang) to stop collecting on Sepadan unless he is allowed to by Busari and Mahmud, and have informed the latter not to allow him to unless they like as he has no 'kuasa'.

Annex MM 92

NOTE FROM THE RESIDENT OF EAST COAST TO ASSISTANT DISTRICT OFFICER OF SEMPORNA, JULY 21, 1910

RESIDENT, EAST COAST,

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[illegible]

From whom. A.D.O.

Salinan yang disahkan benar

Place. Semporna [illegible]

Date 26. 6.10

Recd: 5 7.10

Subject

Informed that there was no further friction between Panglima Maso & Shahbandar Mahmud re turtle eggs

A.D.O. Semporna

Action approved. I have also spoken to Pgl. Udang & told him he must not take turtle eggs except under joint permission of both their chiefs.

Please speak to Pgl: Kaya & impress on him that I have no wish for him to endeavour to retain Imam Bandi's claim

J.H.F.
7. 7. 10.

Resident

Noted. I will inform Panglima Kaya accordingly

21/7

File

Annex MM 93

PROCLAMATION XXX, DECEMBER 21, 1914

PROCLAMATION XXX OF 1914.

Repealed Oct. 16/52.

[L.S.] CECIL WILLIAM CHASE PARR,
Governor.

By His Excellency CECIL WILLIAM CHASE PARR, Esquire, Governor and Commander-in-Chief of the State of North Borneo and its Dependencies.

[SANDAKAN, 21ST DECEMBER, 1914.]

WHEREAS it is deemed expedient to make provision for the granting of certain Monopolies in this State and to protect the Monopolists thereunder; IT is hereby enacted as follows:—

Preamble.

1. This Proclamation may be cited as "The Monopolies Proclamation, 1914," and shall come into force upon publication thereof in the *Gazette*.

Short title and commencement.

2. It shall be lawful for the Governor with the approval of the Court of Directors and after notice thereof duly published in the *Gazette* to grant by licence in the from set forth in Schedule II hereto to any person or body of persons or any Company desirous of or formed for any or all of the purposes and subject to the proviso set forth in Schedule I hereto the exclusive right in such behalf and the full enjoyment of all benefits and profits arising therefrom for such length of time and within such limits and upon all such other special terms and conditions as shall in each case be deemed proper to prescribe in such licence.

Certain exclusive rights grantable.

3. Any person or persons or company not being licensed as provided by the preceding section hereof and trading or attempting to trade in such manner as encroaches or is likely to encroach upon or interfere in any way with the exclusive right and full enjoyment of the kinds therein referred to shall for each offence be liable on conviction before a First Class Magistrate to a fine not exceeding one thousand dollars and to forfeiture of the plant (if any) used for the purpose of such trading or attempt.

Penalty.

4. The Governor may from time to time make and when made vary or cancel rules for more effectually carrying out the purposes and provisions of this Proclamation and may prescribe penalties for any breach thereof.

Power to [illegible] Rules.

5. The Governor may by Notification in the *Gazette* and with the approval of the Court of Directors at any time add to the purposes specified in Schedule I hereto

Power to add to purposes contained in Schedule I.

SCHEDULE I.

To acquire the exclusive right of

(a) making ice for the purpose of sale at places within British North Borneo within a radius of twenty miles from Jesselton Wharf at Jesselton for a term of twenty years from the 18th day of April 1913, and thereafter until determined by six months notice given by the Government to the licensee or *vice versa*.

(b) carrying on the business of cold storage of meat, groceries or other edibles at the places and within the radius and for the periods mentioned in the next preceding clause (a) hereof;

Repealed Ord. 16/53.

Provided that the sale of ice made outside the area described in the said clause (*e*) and the making of ice or the preserving of meat, groceries or other edibles by ice or other system of cold storage solely for the consumption or use by the person or persons or company so making such ice and preserving such meat, groceries or other edibles or for other private consumption or use and not for sale, shall not be prohibited.

(*f*) making salt within an area not exceeding a radius of ten miles from the Customs Wharf at Sandakan for a term of ten years from the 29th September, 1913.

(*g*) collecting turtle eggs for such period as the respective Residents with the approval of the Governor may from time to time decide from the islands within the State.

SCHEDULE II.

(*Form of licence under section 2 of the Monopolies Proclamation, of 1914.*)

Names / Mr. .... of ....

are / is hereby licensed under the above-named Proclamation to (*a*) ....

for (*b*) .... from (date) ....

to (date) .... within (*c*) ....

....

and subject to the following special terms and conditions (*d*) ....

....

....

....

....

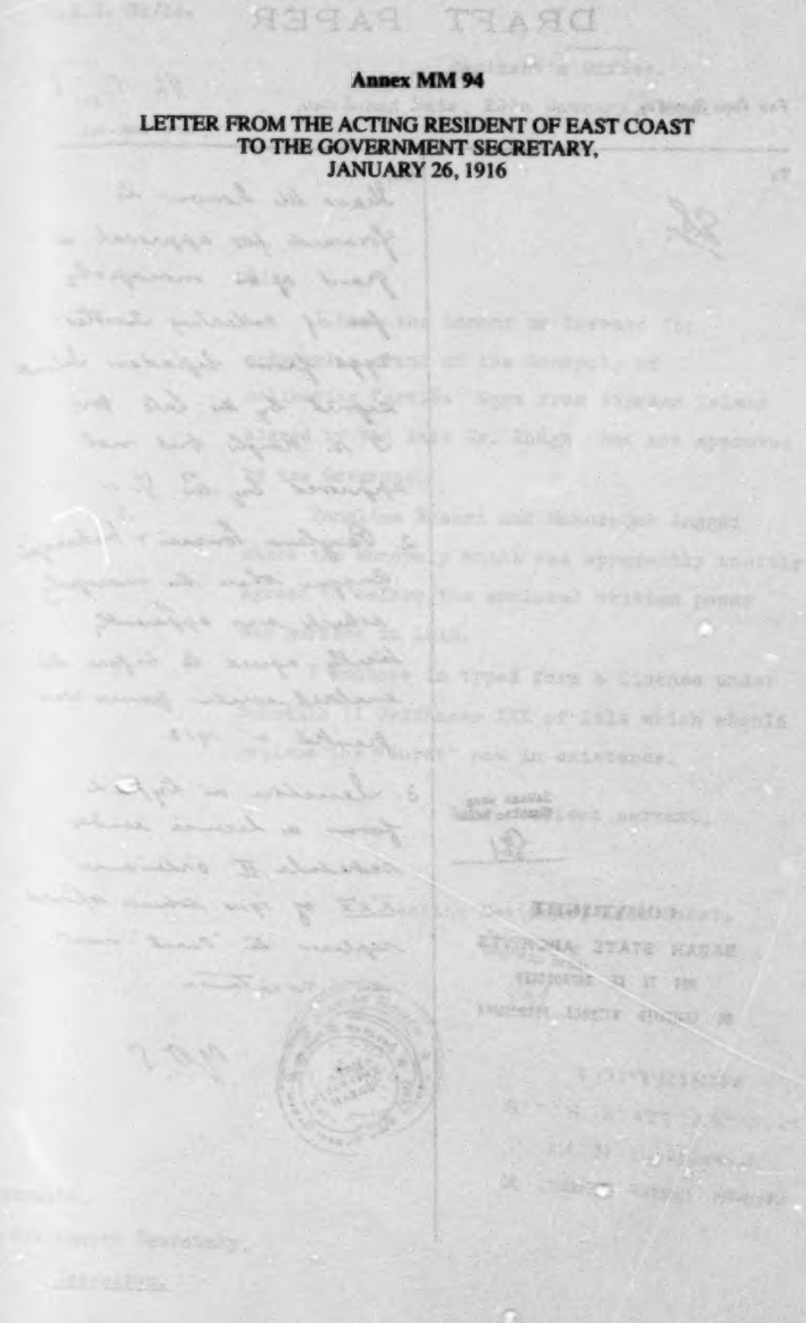
(*a*) here describe the one or other of the purposes specified in Schedule I.
(*b*) here state number of years.
(*c*) here state the local limits.
(*d*) here state the special terms (if any).

By His Excellency's Command,

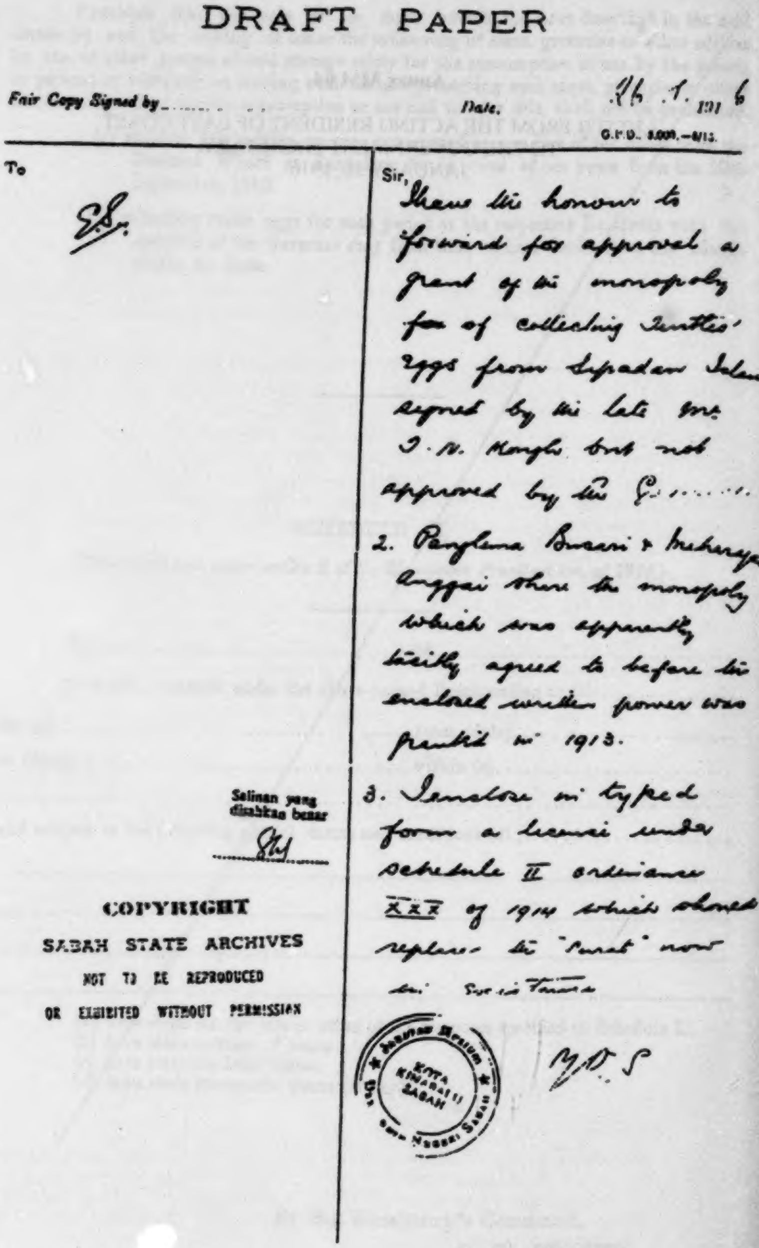
F. W. FRASER,
Government Secretary

Annex MM 94

LETTER FROM THE ACTING RESIDENT OF EAST COAST TO THE GOVERNMENT SECRETARY, JANUARY 26, 1916



DRAFT PAPER



DRAFT PAPER

Fair Copy Signed by.................. Date, 26.1.1916

G.P.O., 3,000.—8/13.

To

G.S.

Sir,

I have the honour to forward for approval a grant of the monopoly for of collecting turtles' eggs from Sipadan Island signed by the late Mr. J. H. Hough but not approved by the G.......

2. Panglima Brani & Maharajah Anggai share the monopoly which was apparently tacitly agreed to before the enclosed written power was granted in 1913.

3. I enclose in typed form a licence under schedule II ordinance XXX of 1914 which should replace the "surat" now in [illegible] Tawau

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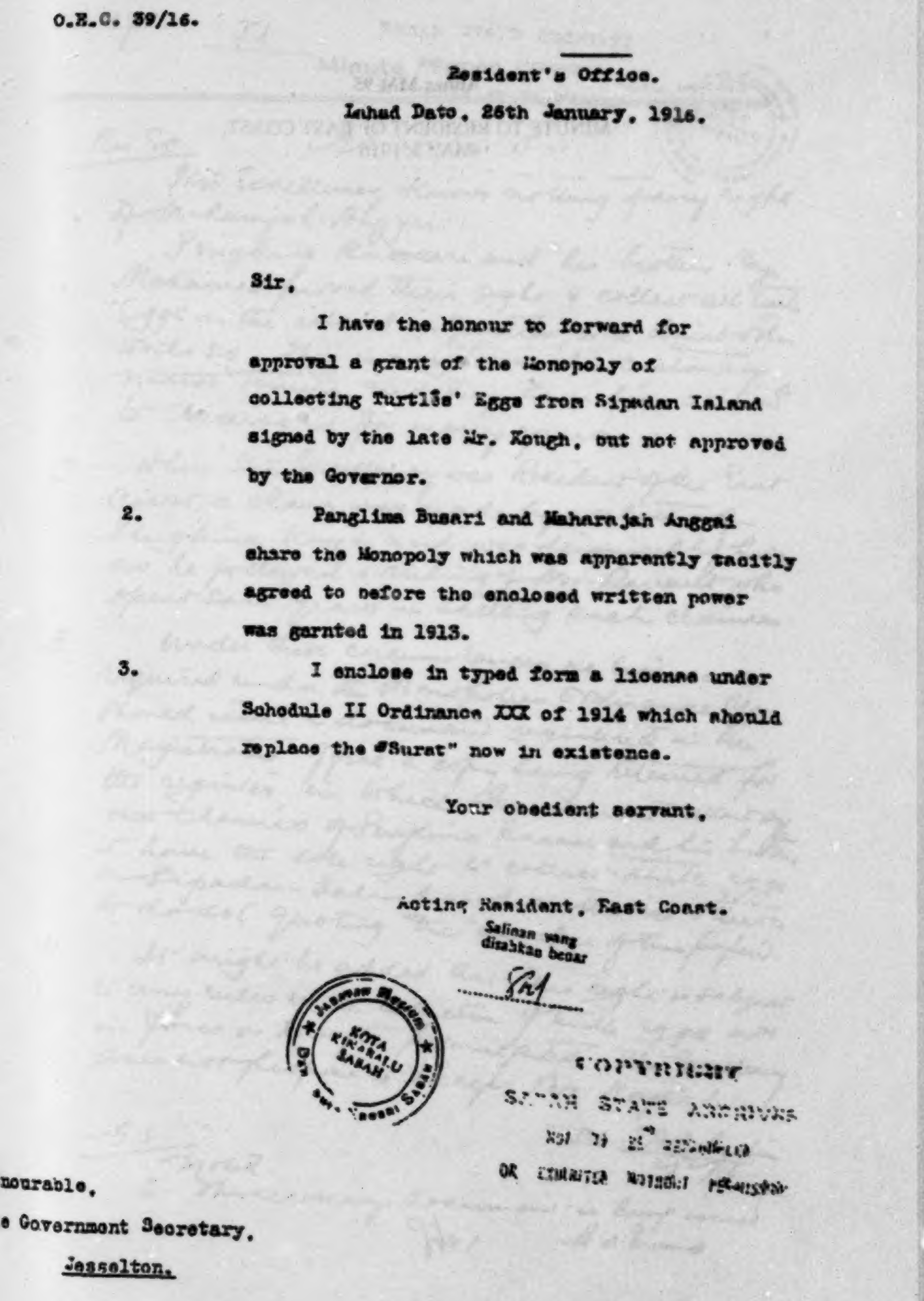

O.E.C. 39/16.

Resident's Office.
Lahad Dato, 26th January, 1916.

Sir,

I have the honour to forward for approval a grant of the Monopoly of collecting Turtles' Eggs from Sipadan Island signed by the late Mr. Kough, but not approved by the Governor.

2. Panglima Busari and Maharajah Anggai share the Monopoly which was apparently tacitly agreed to before the enclosed written power was garnted in 1913.

3. I enclose in typed form a license under Schedule II Ordinance XXX of 1914 which should replace the "Surat" now in existence.

Your obedient servant,

Acting Resident, East Coast.

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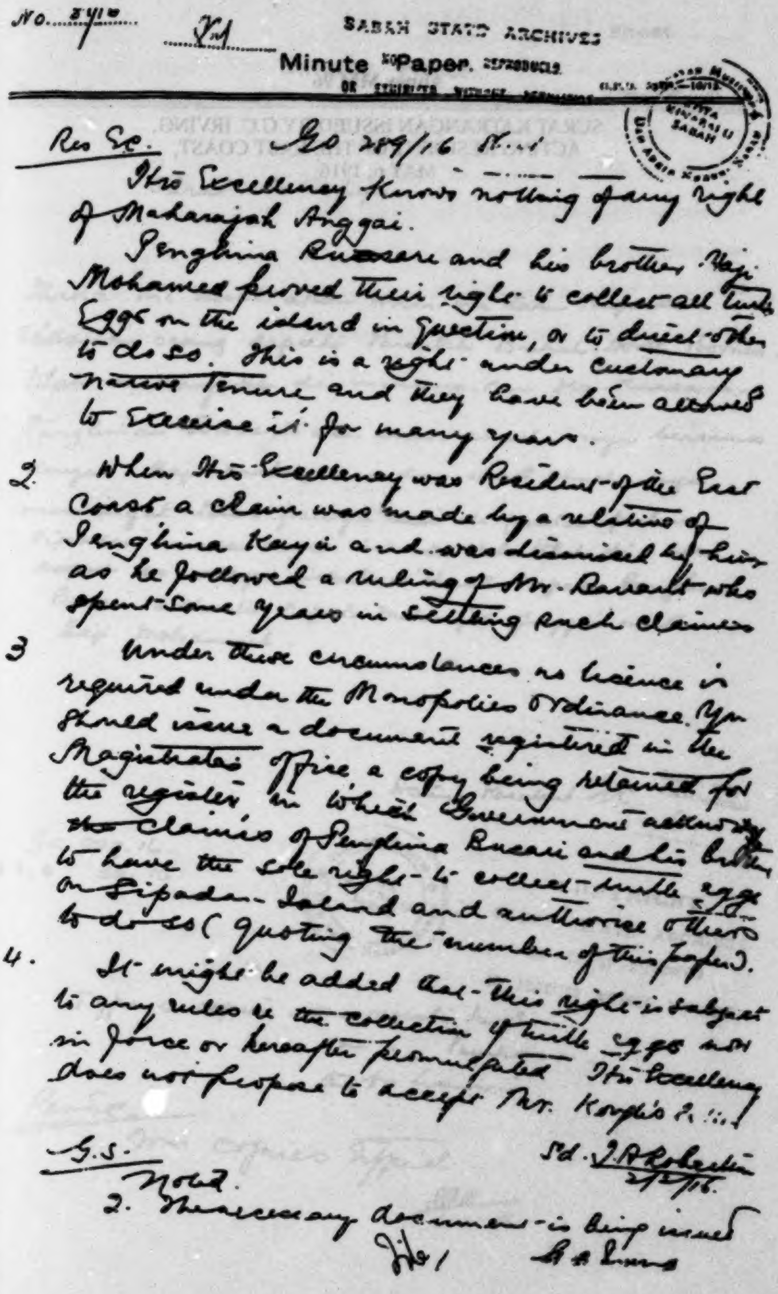
nourable,
e Government Secretary,
Jesselton.

Annex MM 95

MINUTE TO RESIDENT OF EAST COAST, MAY 3, 1916



No. 8410 Vol

SABAH STATE ARCHIVES

Minute Paper. REPRODUCED OR EXHIBITED WITHOUT PERMISSION

G.P.O. 3000—10/15

Res. E.C. G.O. 289/16 [illegible]

His Excellency knows nothing of any right of Maharajah Anggai.

Penglima Ruasari and his brother Haji Mohamed proved their right to collect all turtle eggs on the island in question, or to direct others to do so. This is a right under customary Native Tenure and they have been allowed to exercise it for many years.

2. When His Excellency was Resident of the East Coast a claim was made by a relative of Penglima Kaya and was dismissed by him as he followed a ruling of Mr. Ravault who spent some years in settling such claims.

3 Under these circumstances no licence is required under the Monopolies Ordinance. You should issue a document registered in the Magistrate's Office a copy being retained for the register in which Government acknowledge the claims of Penglima Rucari and his brother to have the sole right to collect turtle eggs on Sipadan Island and authorise others to do so (quoting the number of this paper).

4. It might be added that this right is subject to any rules re the collection of turtle eggs now in force or hereafter promulgated. His Excellency does not propose to accept Mr. Kemp's [illegible]

G.S.

Sd. J.A. Robertson
2/2/16.

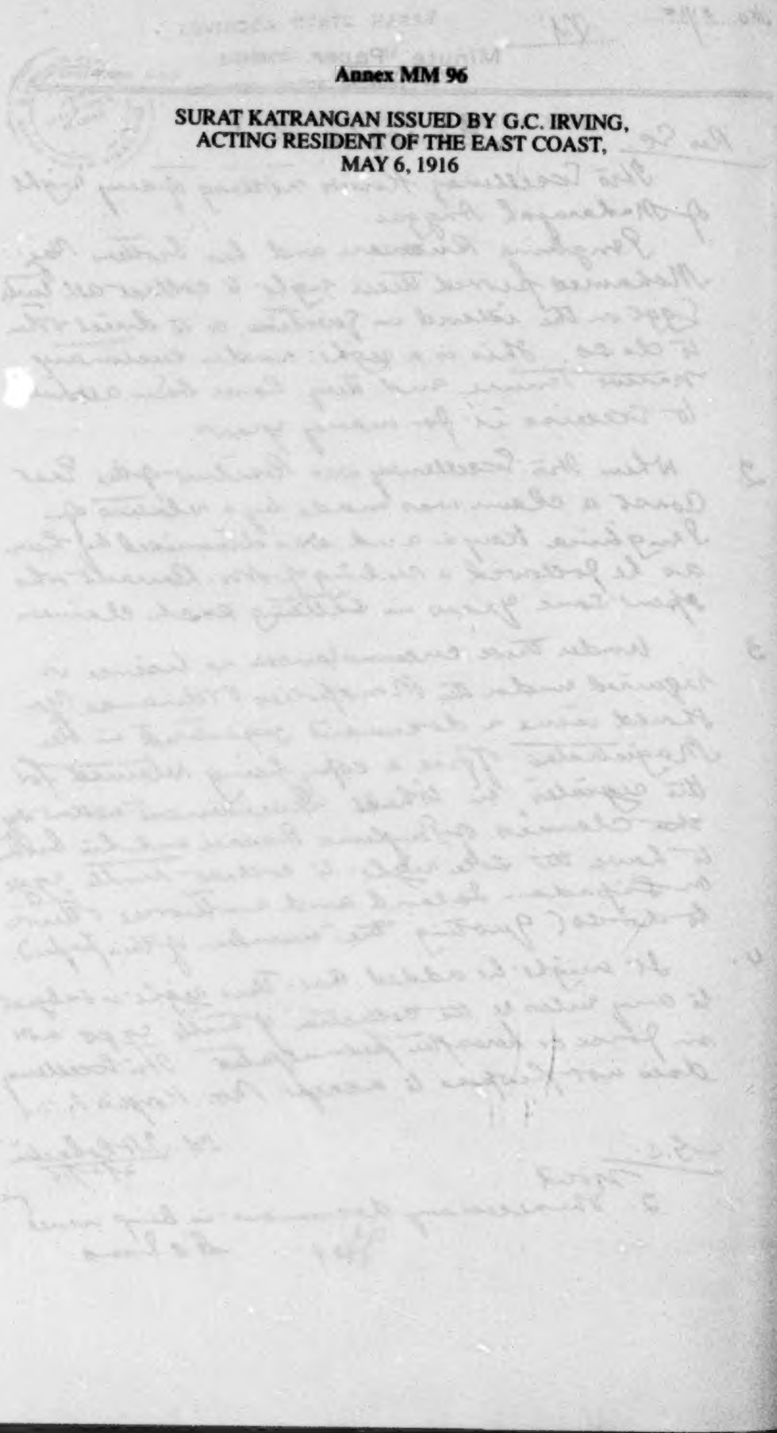
Noted.

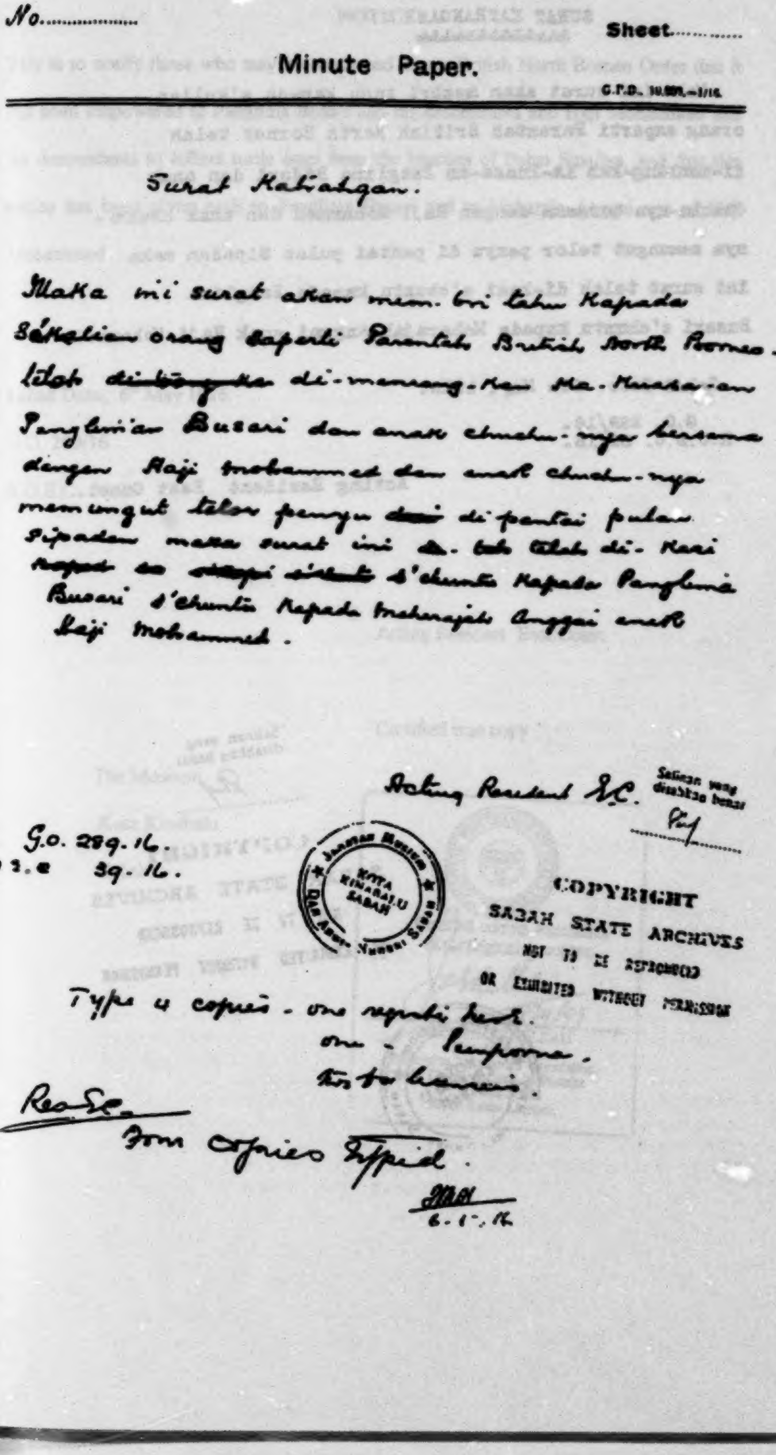
2. The necessary document is being issued

File 1 G.A. Simms

Annex MM 96

SURAT KATRANGAN ISSUED BY G.C. IRVING, ACTING RESIDENT OF THE EAST COAST, MAY 6, 1916





No..................

Sheet............

Minute Paper.

G.P.O. 10,000.—1/16.

Surat Kabiatgan.

Maka ini surat akan mem-bri tahu Kapada Sekalian orang Saperti Parentah British North Borneo - telah ~~dimbongka~~ di-menang-kan Ka-Kuasa-an Panglima Busari dan anak chuchu-nya bersama dengan Haji Mohammed dan anak chuchu-nya memungut telor penyu ~~dari~~ di pantai pulau Sipadan maka surat ini di-buka telah di-kasi ~~Kapada~~ ~~sa~~ ~~sitapi~~ ~~sietuh~~ s'chuntu Kapada Panglima Busari s'chuntu Kapada Mohamajid Anggai anak Haji Mohammed.

Acting Resident E.C.

Salinan yang disahkan benar

G.O. 289.16.
R.O. 2. e 39.16.

Jabatan Muzium Kota Kinabalu Sabah

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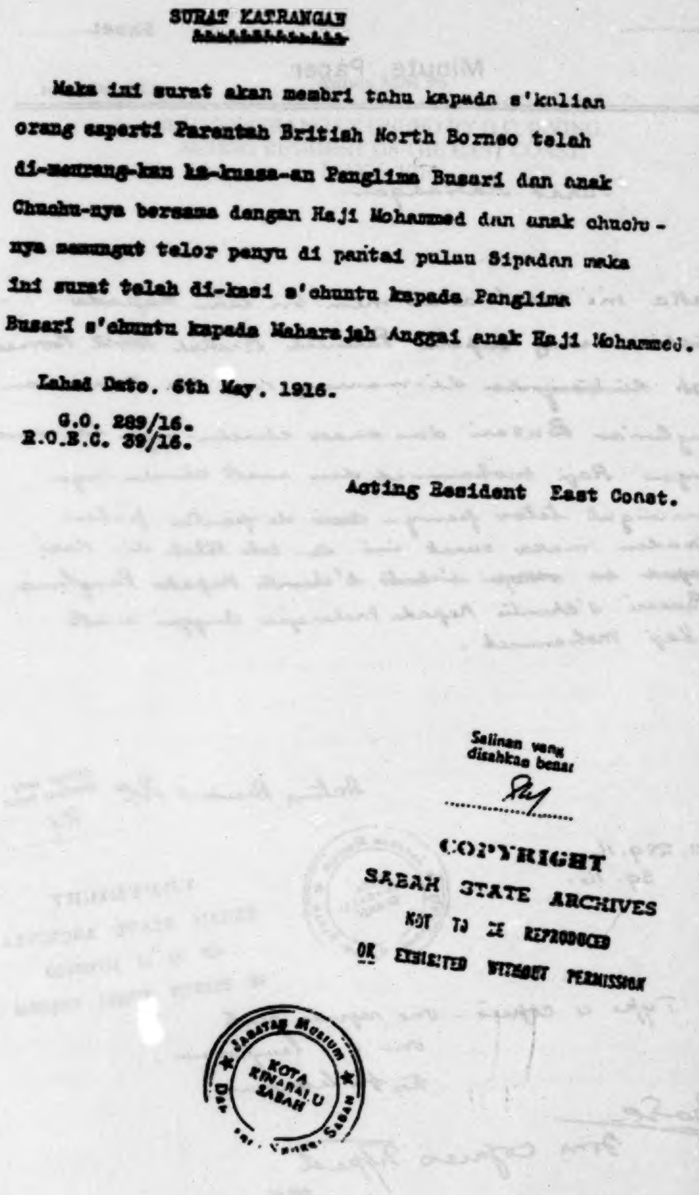
Type 4 copies - one reputi hut.
one - Semporna.
two for licences.

Res. S.C.
Four copies typed.
6.1.16.



SURAT KATRANGAN

Maka ini surat akan membri tahu kapada s'kalian orang seperti Parentah British North Borneo telah di-menrang-kan ka-kuasa-an Panglima Busari dan anak Chuchu-nya bersama dengan Haji Mohammed dan anak chuchu-nya memungut telor penyu di pantai pulau Sipadan maka ini surat telah di-kasi s'chuntu kapada Panglima Busari s'chuntu kapada Maharajah Anggai anak Haji Mohammed.

Lahad Dato. 6th May. 1916.

G.O. 289/16.
R.O.E.C. 39/16.

Acting Resident East Coast.

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NOTICE

This is to notify those who may be concerned as per British North Borneo Order that it has been empowered to Panglima Busari and his descendants and Haji Mohammed and his descendants to collect turtle eggs from the beaches of Pulau Sipadan, and that this notice has been given each to Panglima Busari and to Maharaja Aaggai son of Haji Mohammed.

Lahad Dato, 6th May 1916

G.O. 289/16

R.O.E.C. 39/16

Acting Resident East Coast

Certified true copy

The Museum
Kota Kinabalu
Sabah

Certified correct translation
of the original document.
8/9/95
[illegible] ABDULLAH
Hon. Secretary
Malaysian Translators Association
c/o Dewan Bahasa & Pustaka
P. O. Box 10803
50926 Kuala Lumpur.

Annex MM 97

TURTLE PRESERVATION ORDINANCE, JUNE 1, 1917

Ord. 5 of 1917
G. N. 120 of 1919

Ordinance 5 of 1917

TURTLE PRESERVATION

Date of commencement.

1st June, 1917.

Title.

1. This Ordinance may be cited as "The Turtle Preservation Ordinance, 1917."

Licence required.

2. (i) No person shall search for, capture or destroy turtles or search for or collect turtle eggs within the State or the territorial waters thereof unless he shall have obtained a licence in such behalf in manner prescribed hereunder.

Presumption against person in possession of turtle shell.

(ii) Any person having in his possession any turtle shell shall be presumed, until he shall have proved the contrary, to have acquired such possession contrary to the provisions of this Ordinance.

Full enquiry necessary before purchasing turtle shell.

(iii) No person shall purchase any turtle shell unless after making full enquiry he shall have satisfied himself that the vendor thereof is duly licensed in such behalf and any person so purchasing from a vendor found not to be so duly licensed shall be deemed to have so purchased without first having made enquiry and shall be liable on conviction before any Magistrate to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding three months or to both.

By whom issued. G. N. 120/19.

(iv) Licences to search for, capture or destroy turtles and licences to search for or collect turtle eggs shall be issued by the Principal European Customs Officer at any port in the State or, where no such officer exists, by the District Officer in the forms prescribed in Schedule A, and such licences shall remain in force until the end of the current year for which they are issued and shall be subject to any such conditions as the issuing officer may, with the previous approval in writing of the Governor, endorse thereon.

Fee for licence.

(v) Fees for such licences shall be levied in accordance with Schedule B.

Native reserves.

3. The areas specified by the Governor from time to time in Schedule C shall be deemed to be native reserves for the collection of turtle eggs, and nothing contained in this Ordinance shall be deemed to affect the collection of turtle eggs by natives therein, and no licence or concession granted hereunder shall be deemed to include such areas: provided that natives collecting turtle eggs in such areas shall be subject to any rules declared hereunder for the protection of the industry.

Account of turtle to be rendered.

4. The holder of any licence issued under this Ordinance shall on demand by any duly authorised officer furnish a true account of the number of turtles captured or destroyed, or of the turtle eggs collected by him under such licence and of the person or boats employed by him in such pursuit.

5. The Governor may constitute farms, for such length of time and within such limits and upon such terms and conditions as he may determine in each case, of the exclusive right to collect turtle eggs in the State or in any district thereof. Turtle farms.

6. Any person Penalties.

(a) searching for, capturing or destroying turtles or searching for, taking or collecting turtle eggs without a licence duly obtained in that behalf:

(b) giving false information as to the number of turtles captured or destroyed by him or of the persons or boats employed by him;

(c) acting in contravention of any other provision of this Ordinance or rule thereunder for which no penalty is prescribed

shall commit an offence and shall be liable on conviction before any Magistrate to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding six months or to both and his licence, if any, may be cancelled upon such conviction.

7. The Governor may by notification in the Gazette vary the fees leviable under this Ordinance and make rules for more effectually carrying out the purposes of this Ordinance. Power to make rules.

SCHEDULE A

FORM I

TURTLE PRESERVATION ORDINANCE, 1917, SECTION 2

LICENCE TO TAKE TURTLES G. N. 129/19.

of

is permitted to search for, capture and destroy turtles within the following limits and subject to the following conditions:—

This licence expires on 19
Date of issue 19
Fee paid $

Principal European Customs Officer or
District Officer.

FORM II

TURTLE PRESERVATION ORDINANCE, 1917, SECTION 2

LICENCE TO TAKE TURTLE EGGS

of

is permitted to search for and collect turtle eggs within the following limits:—

and subject to the following conditions:

This licence expires on 19
Date of issue 19
Fee paid $

Principal European Customs Officer or
District Officer.

SCHEDULE B

SCALE OF FEES G. N. 129/19.

For licence to capture or kill turtles, section 2 .. $ 1.00
For licence to take turtle eggs, section 2 .. .. 20.00

SCHEDULE C

NATIVE RESERVES (*Section 3*)

All that area from Nosong Point in Kimanis Bay to Jesselton, including Pulau Tiga and Gaya Island.
Sipadan Island.
Kudat District, including the islands therein.

Annex MM 98

AGREEMENT EXECUTED BETWEEN PANGLIMA ABUSARI AND DESCENDANTS OF MAHARAJA MAHMUD, APPROVED BY G.C. IRVING ON AUGUST 29, 1918

COMMITTEE OF INVESTIGATION
RE SIPADAN & LIGITAN
APPENDIX: C2A

Di Semporna pada 18 haribulan August, 1918 yang membuat ini perjanjian sahaya nama Panglima Abusari dan Maharaja Anggai dari hal sahaya orang punya pusaka Pulau Sipadan dari pasal telur penyu.......... pulau Sipadan sahaya Panglima Abusari dan maharaja Anggai mengaku bagian pada satu orang satu bulan antara sahaya Panglima Abusari dan Maharaja tiada boleh lebeh daripada yang tersebut di dalam ini perjanjian apabila sahaya dua orang mengaku pindakan ini perjanjian tiada boleh diubah melainkan di hadapan tuan residen baru boleh dipindakan ini surat dan .... sahaya orang dua bagian ini surat dihadapan Panglima Uddang dan Panglima Kayu dan Imam Mahmud serta sahaya dua orang menaruh tanda tangan ada dibawah ini surat.

Tandatangan Maharaja Anggai	Tandatangan Panglima Abusari

Saksi x Panglima Udang
Imam Mahmud x Panglima Kayu

Approved:
G.C. Irving
Resident.

29th Aug: 1918

COMMITTEE OF INVESTIGATION
RE SIPADAN & LIGITAN
APPENDIX: C2A

At Semporna on the 18th of August, 1918 this agreement is made between Panglima Abusari and Maharaja Anggai with reference to our interest in Pulau Sipadan in respect of turtle eggs .... We Panglima Abusari and Maharaja Anggai agree to a share of one month each between us, not more than the aforesaid duration in this agreement, and we hereby agree that any amendment to this agreement shall only be made in the presence of the new Resident ... we the above-named affix our signatures witnessed by Panglima Uddang and Panglima Kayu and Imam Mahmud.

Signature
Maharaja Anggai

Signature
Panglima Abu Sari

x Panglima Udang

Witness

x Panglima Kayu

Imam Mahmud

Approved:

G.C. Irving

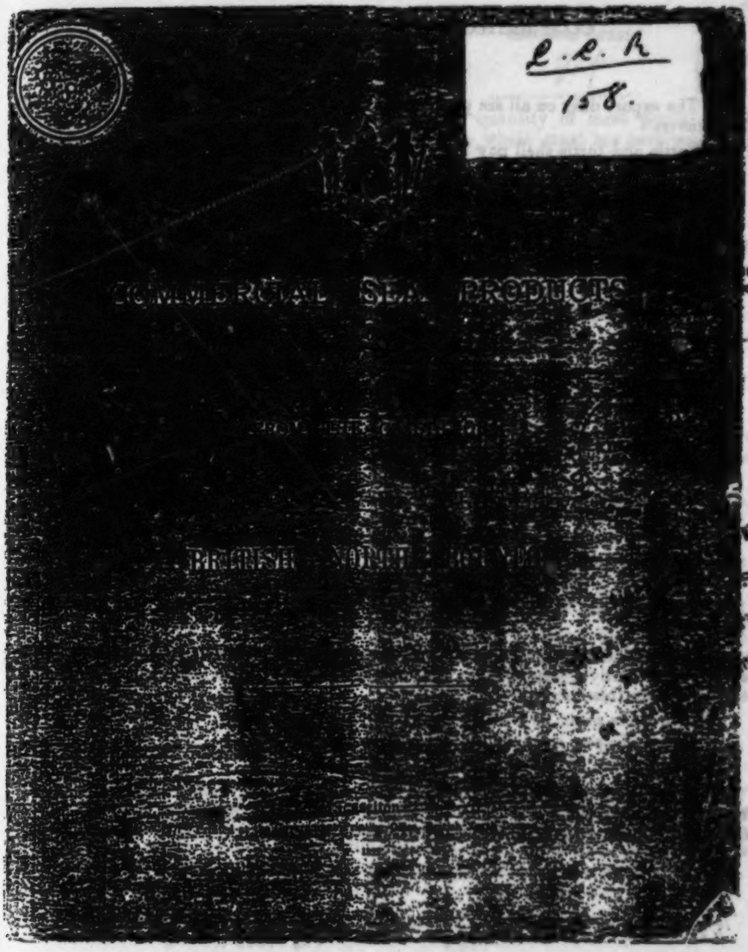
Resident

29th August 1918

Certified correct translation
of the original document:
8/9/99
SAODAH ABDULLAH
Hon. Secretary
Malaysian Translators Association
c/o Dewan Bahasa & Pustaka
P. O. Box 10803
50926 Kuala Lumpur.

Annex MM 99

COMMERCIAL SEA PRODUCTS FROM THE COAST OF BRITISH NORTH BORNEO, 1922



L.L.R.
158.

COMMERCIAL SEA PRODUCTS

FROM THE COLONY OF

BRITISH NORTH BORNEO

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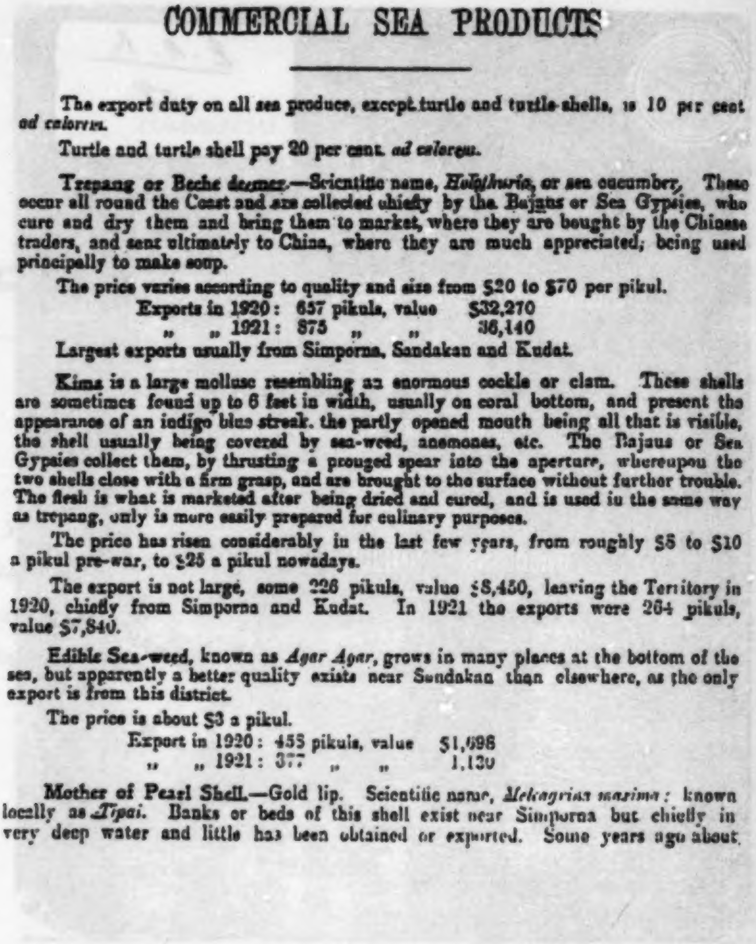

COMMERCIAL SEA PRODUCTS

The export duty on all sea produce, except turtle and turtle-shells, is 10 per cent *ad valorem*.

Turtle and turtle shell pay 20 per cent. *ad valorem*.

Trepang or Beche de mer.—Scientific name, *Holothuria*, or sea cucumber. These occur all round the Coast and are collected chiefly by the Bajaus or Sea Gypsies, who cure and dry them and bring them to market, where they are bought by the Chinese traders, and sent ultimately to China, where they are much appreciated; being used principally to make soup.

The price varies according to quality and size from $20 to $70 per pikul.

Exports in 1920 : 657 pikuls, value $32,270
„ „ 1921 : 875 „ „ 36,140

Largest exports usually from Simporna, Sandakan and Kudat.

Kima is a large mollusc resembling an enormous cockle or clam. These shells are sometimes found up to 6 feet in width, usually on coral bottom, and present the appearance of an indigo blue streak. the partly opened mouth being all that is visible, the shell usually being covered by sea-weed, anemones, etc. The Bajaus or Sea Gypsies collect them, by thrusting a pronged spear into the aperture, whereupon the two shells close with a firm grasp, and are brought to the surface without further trouble. The flesh is what is marketed after being dried and cured, and is used in the same way as trepang, only is more easily prepared for culinary purposes.

The price has risen considerably in the last few years, from roughly $5 to $10 a pikul pre-war, to $25 a pikul nowadays.

The export is not large, some 226 pikuls, value $8,450, leaving the Territory in 1920, chiefly from Simporna and Kudat. In 1921 the exports were 264 pikuls, value $7,840.

Edible Sea-weed, known as *Agar Agar*, grows in many places at the bottom of the sea, but apparently a better quality exists near Sandakan than elsewhere, as the only export is from this district.

The price is about $3 a pikul.

Export in 1920 : 455 pikuls, value $1,698
„ „ 1921 : 377 „ „ 1,130

Mother of Pearl Shell.—Gold lip. Scientific name, *Meleagrina maxima*: known locally as *Tipai*. Banks or beds of this shell exist near Simporna but chiefly in very deep water and little has been obtained or exported. Some years ago about

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KINABALU
SABAH

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50 pikuls were obtained near Simporna, also a fair quantity of small pearls. Since then, however, no finds have been made although the whole coast has been prospected at odd times by experienced pearlers.

Value now runs about $50 per pikul.

Exports in last few years have been negligible.

There is a second species known as *Meleagrina fucata* which yields a small pearl, and this variety exists in more than one place on our coast line, but notably in Marudu Bay where it is known as *Karis* shell.

In the Resident's report for Marudu Bay of 1898, a sale of pearls by auction at $2,533 is mentioned. They were, in the main, seed pearls but some of larger size were evidently present as a single specimen fetched $150.

These beds were worked again in 1915 when $1,358 worth of pearls were exported. The shell itself has no commercial value.

THE BLACK LIP, MOTHER OF PEARL SHELL, which is much smaller and thinner than the gold lip variety, is found all over the coast but chiefly in Simporna and Sandakan districts.

The price at present runs from $6 to $10 per pikul, although it has been as high as $20 per pikul.

The exports in 1919 were 90 pikuls, value $1,540
" " " 1920 " 134 " " 1,340
" " " 1921 " 9 " " 72

Ambergris.—This is a biliary secretion of the sperm whale, which is thrown up, and found floating on the sea. The Chinese value it highly as a medicine, but its principal value is in connection with the manufacture of perfumery.

Value, $18 to $35 per tahil.
Exports in 1920 : 6 katis, value $1,590
" " 1921 : 1 kati " 51

Tortoise or Turtle shell—The name of tortoise shell usually applied commercially to this article is somewhat of a misnomer, as it is supplied by a turtle. These are fairly common on our Coast but at the same time not easy to find, a capture being regarded as a matter of luck. The shell is the outer layer or skin of the turtle and is usually taken from either the "Hawksbill" or "Loggerhead" varieties.

Value from $5 to $18 per kati.
Exported in 1920 : 215 katis, value $2,120
" " 1921 : 324 " " 4,830

Chiefly from Simporna.

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3 921

The ordinary or green turtle is the one which lays the *turtle eggs*, and its shell is of no value for commercial purposes, hence it is preserved. The sandy shores of some of our islands, notably Taganac off Sandakan, Turtle Island near Pulau Tiga on the West Coast, and Sipadan Island in Sibuko Bay, abound with turtle eggs, the largest trade being however done at Sandakan, where the rights over the adjacent islands are farmed out. The season is during the S. W. Monsoon, *i.e.* from April to October.

Value $5 to $8 per thousand.
Exports in 1919 : 638,040 pieces. value $2,584
" " 1920 : 1,041,375 " " 6,506
" " 1921 : 609,795 " " 4,070

Chiefly from Sandakan and Simporna.

Seed Pearls.—These are found in a thin, flat, pinkish-shelled oyster, the *Placu*[illegible], or window shell, known locally as "Selisip", which usually occurs in shallow water on the mud at the mouth of rivers. Very few are large enough to be of much value individually. They find a place in the Chinese pharmacopia, being ground or pounded up into a powder, which is said to have valuable medicinal properties.

The price usually runs from $25 to $30 per tahil, but in 1920 it went up to $70 per tahil.

Exports in 1919 : 1,622 tahils. value $12,418
" " 1920 : 1,008 " " 24,294
" " 1921 : 66 " " 1,210

The exports were practically all from Sandakan district and include those known as dust which only fetch $1 to $2 per tahil.

Seed pearls are also found in a larger kind of oyster known as fan shell or "Belung", which frequents deeper water than Selisip.

Selisip Shell.—The "Placuna" or window shell, is obtained in fairly large quantites, but little is exported. The price is very low, 50 cents to $1 per pikul. It is used a little locally in the making of windows, screens, or lamp shades, but not to any great extent.

Exports in 1920.: 43 pikuls. value $90

It is chiefly obtained in Sandakan district.

Snail Shells.—A conical shaped shell used for making buttons. A good trade is done in these, the chief exports being from Kudat, Sandakan, and Jesselton.

Value $20 to $25 a pikul.
Exports in 1919 : 1,522 pikuls, value $30,905.
" " 1920 : 1,111 " " 44,560.
" " 1921 : 560 " " 14,200.

Jabatan Muzium
KOTA KINABALU SABAH

BAH STATE ARCHIVES
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Salinan yang disahkan benar

Lagong Shells.—There is a small export of these from Jesselton, Kudat, and the East Coast. Only 18 pikuls were exported in 1921, value $190. They are used for making buttons. Value about $10 per pikul.

Sulau Shells.—The large base of these is cut out by the natives to make bangles. There is practically no export. The value is $10 to $15 per pikul.

Sea Horse.—This is occasionally found in our waters and is much valued by the Chinese as a medicine. Thirteen katis were exported in 1921 from Sandakan.

Value $5 to $8 per kati.

Black Snake Sticks or Black Coral Sticks are occasionally found in our waters, and are so treated, that they can be moulded into bracelets and such like ornaments. It is said that they are soaked in oil to mould them and make them pliable.

Value according to the length and thickness of the stick. The price is usually a high one, say anything from $5 to $10 for the treated stick.

Sharks fins.—Sharks abound in Borneo waters and are hunted and caught both by natives and Chinese for their fins and tails which fetch quite a good price in China.

Value, White Shark's fins $150 to $200 a pikul.
Black " " 30 to 80 " "
Exports in 1920 : 286 pikuls, value $21,730
" " 1921 : 178 " " 13,380

Chiefly from Kudat, Sandakan, and East Coast. A fair quantity is also exported from the West Coast.

Fish Maws.—These come from the stomach of certain kinds of fish, chiefly "Ikan Kürau", and after drying and curing fetch a high price, being valued for their edible use in much the same way as trepang.

Value $150 to $300 per pikul.
Exports in 1919 : 8 pikuls value, $1,226
" " 1920 : 8 " " 1,645.
" " 1921 : 11 " " 2,360

General.—In addition to the foregoing, there are exports of fish skin and scales, fish teeth, fish kidneys, and eggs. Sharks' bones, prawn heads, prawn skin and scales. Selisip flesh, snail shell flesh, sotong or dried cuttle fish, dried oysters, dried prawns and shrimps, not to mention some 20,000 to 30,000 pikuls of salt and dried fish exported annually additional. This last mostly goes to Hongkong from Sandakan and is valued at an average of $10 to $15 a pikul. The chief fishing grounds are on the East Coast between Sandakan and Lahad Dato'.

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5

OTHER PRODUCTS.

Armadillo Skins and Scales.—These are almost inseparable, although the latter is valued more highly than the former. They are both used as medicine by the Chinese.

Value of skins, $80 per pikul.
" " scales, $100 " "
Exports in 1920 : 46 pikuls, chiefly from West Coast, value $4,000
" " 1921 : 46 " " " " " 4,552
Export duty, 10 per cent. *ad valorem.*

Rhino Hoofs.—These are used by the Chinese as a medicine. The value is $3 per kati. The exports are naturally small, not many rhinoceroses being bagged in a year. Export duty 10 per cent. *ad valorem.*

Rhino Horns.—Also used as medicine by the Chinese. Value $250 per kati. Anything from 50 to 75 katis may leave the Territory annually. A good horn seldom weighs more than 1 kati.

Export duty, 10 per cent. *ad valorem.*

Hides.—Locally tanned. A good trade is done in Sandakan and Jesselton. The value is from $30 to $50 per pikul.

Exports in 1920 :	Sandakan,	668 pikuls,	value	$17,300
	Jesselton,	140 "	"	4,140
Exports in 1921 :	Sandakan,	765 "	"	26,545
	Jesselton,	592 "	"	19,880

Export duty, 10 per cent. *ad valorem.*

Birds Nests.—Edible. These are made in caves, by a kind of swift. There are two kinds, Black and White. The chief caves are at Gomanton, on the Kinabatangan River, and at Madai, near Lahad Dato'. There are also caves on Mantanani islands on the West Coast.

The value of the nests is : Black, $100 to $300 per pikul.
White, $800 to $2,000 per pikul.

The highest-priced nests are those from Berhala Island, just outside Sandakan which, however, only yield a few katis each year. They sometimes realise $40 to $50 per kati.

Export duty varies according to rate of Hongkong exchange. In normal times of par exchange it is :

Black Nests : 15 cents per kati
White Nests : $1 per kati
Black nests from Lahad Dato : 30 cents per kati
White " " " " $2 per kati
Exports in 1920 were 431 pikuls, value $222,724
" " 1921 " 426 " " 116,652

(True Copy)

No.51 in G.P.1251/32.

Annex MM 100

LETTER FROM THE CONSERVATOR OF FORESTS, SANDAKAN TO THE SECRETARY OF NORTH BORNEO, DECEMBER 19, 1932

Office of the Conservator of Forests,
SANDAKAN, 19th December, 1932.

The Honourable
The Government Secretary,
Sandakan.

Sir,

Ref: G.S.O.No.1251/32, Memo 1.
Sheet No.11, Minute(23)

I have the honour to forward the following details relative to the proposed Megapode Preserves.

1. Sipadan Island or Turtle Island,
Semporna, Lahad Datu District,
An area of 7.68 acres.

2. Bohidulang Island, Semporna,
Lahad Datu District,
An area of 76.80 acres.

Your obedient servant,

Sgd: H.G. Keith

Conservator of Forests.

HGK/Lla

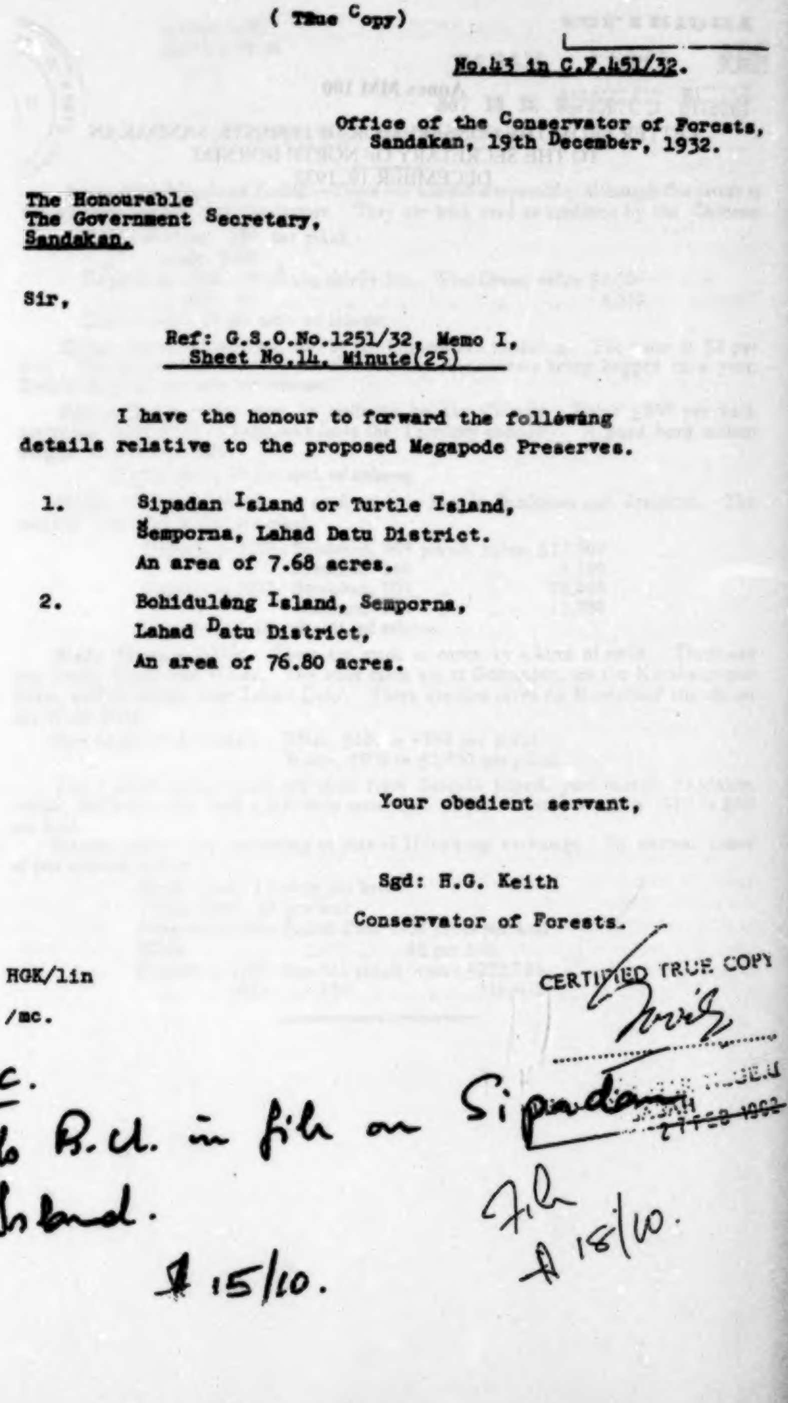
/HO.

CERTIFIED TRUE COPY

c.c.
pl P.U. in file on Sipadan Island.

18/10.

A 18/10



(TRue Copy)

No.43 in C.F.451/32.

Office of the Conservator of Forests,
Sandakan, 19th December, 1932.

The Honourable
The Government Secretary,
Sandakan.

Sir,

Ref: G.S.O.No.1251/32, Memo I,
Sheet No.14, Minute(25)

I have the honour to forward the following details relative to the proposed Megapode Preserves.

1. Sipadan Island or Turtle Island,
Semporna, Lahad Datu District.
An area of 7.68 acres.

2. Bohiduleng Island, Semporna,
Lahad Datu District,
An area of 76.80 acres.

Your obedient servant,

Sgd: H.G. Keith

Conservator of Forests.

HGK/lin

/mc.

CERTIFIED TRUE COPY

SABAH
27 FEB 1962

C.C.
P/o B.C. in file on Sipadan Island.
15/10.

File
18/10.

Annex MM 101

GOVERNMENT NOTIFICATION NO. 69 ISSUED UNDER SECTION 28 OF THE LAND ORDINANCE 1930, FEBRUARY 1, 1933

Disahkan Betul Seperti Salinan Asal

Peguam Besar Negeri, Sabah. 26/3/91

28 OFFICIAL GAZETTE. [FEB. 1, 1933.

NO. 69.—UNDER SECTION 28 OF THE LAND ORDINANCE, 1930.

The islands in the Lahad Datu District described in the schedule hereto are reserved for the purpose of bird sanctuaries.

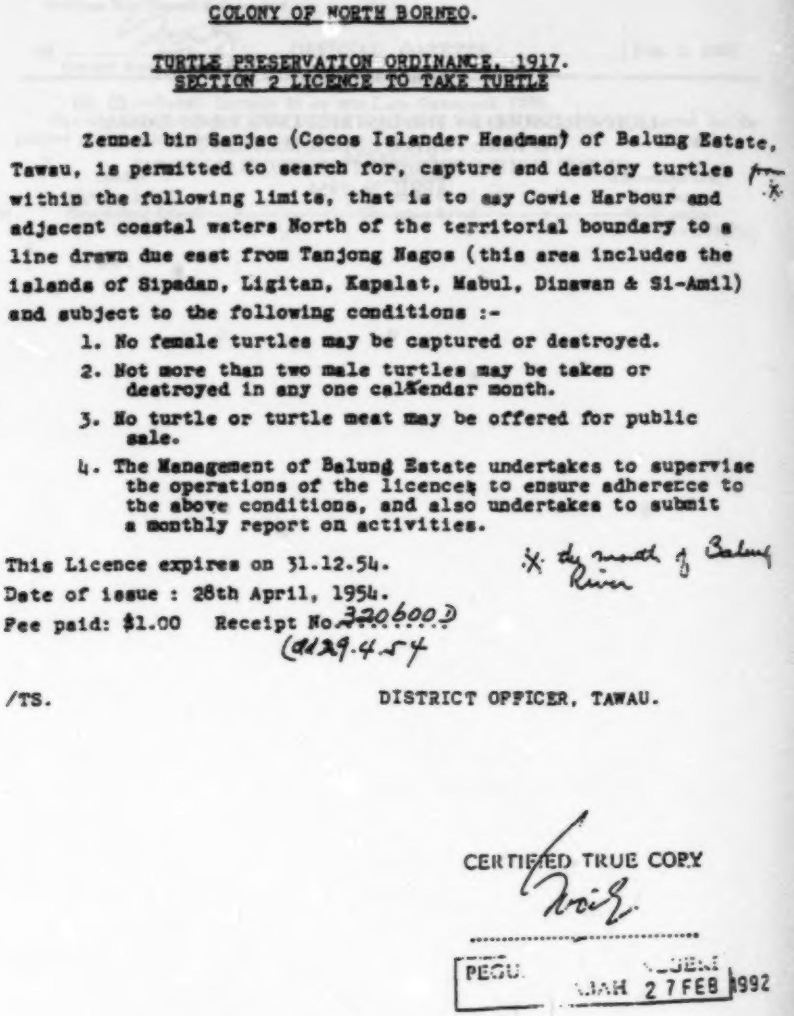
SCHEDULE.

Locality.	Description.	Approximate area.
Sipadan Island	The entire island	7.68 acres.
13/38 ~~Bohidulong Island~~	~~The entire island~~	~~76.80 acres.~~

[No. 1251/32]

Annex MM 102

LICENCE ISSUED BY THE DISTRICT OFFICER OF TAWAU TO TAKE TURTLE UNDER SECTION 2 OF THE TURTLE PRESERVATION ORDINANCE 1917, APRIL 28, 1954



COLONY OF NORTH BORNEO.

TURTLE PRESERVATION ORDINANCE, 1917.
SECTION 2 LICENCE TO TAKE TURTLE

Zennel bin Sanjac (Cocos Islander Headman) of Balung Estate, Tawau, is permitted to search for, capture and destory turtles from ·X· within the following limits, that is to say Cowie Harbour and adjacent coastal waters North of the territorial boundary to a line drawn due east from Tanjong Nagos (this area includes the islands of Sipadan, Ligitan, Kapalat, Mabul, Dinawan & Si-Amil) and subject to the following conditions :-

1. No female turtles may be captured or destroyed.
2. Not more than two male turtles may be taken or destroyed in any one calendar month.
3. No turtle or turtle meat may be offered for public sale.
4. The Management of Balung Estate undertakes to supervise the operations of the licencee to ensure adherence to the above conditions, and also undertakes to submit a monthly report on activities.

·X· the mouth of Balung River

This Licence expires on 31.12.54.
Date of issue : 28th April, 1954.
Fee paid: $1.00 Receipt No. 320600 D
(d/d 29.4.54

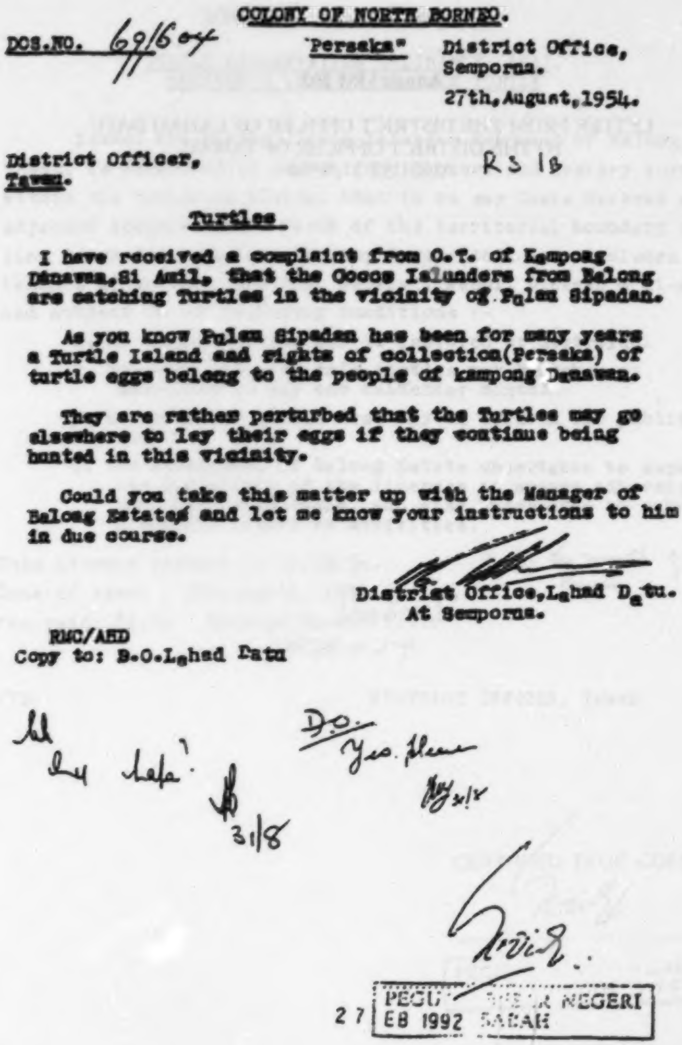
/TS. DISTRICT OFFICER, TAWAU.

CERTIFIED TRUE COPY

PEGU. ...UBEN
...JAH 27 FEB 1992

Annex MM 103

LETTER FROM THE DISTRICT OFFICER OF LAHAD DATU TO THE DISTRICT OFFICER OF TAWAU, AUGUST 27, 1954



COLONY OF NORTH BORNEO.

DOS.NO. 69/6 ow

"Persaka"

District Office,
Semporna.

27th,August,1954.

District Officer,
Tawau.

R3 1B

Turtles

I have received a complaint from O.T. of Kampong Danawan,Si Amil, that the Cocos Islanders from Balong are catching Turtles in the vicinity of Pulau Sipadan.

As you know Pulau Sipadan has been for many years a Turtle Island and rights of collection(Persaka) of turtle eggs belong to the people of kampong Danawan.

They are rather perturbed that the Turtles may go elsewhere to lay their eggs if they continue being hunted in this vicinity.

Could you take this matter up with the Manager of Balong Estates and let me know your instructions to him in due course.

District Office,Lahad Datu.
At Semporna.

RMC/AHD
Copy to: B.O.Lahad Datu

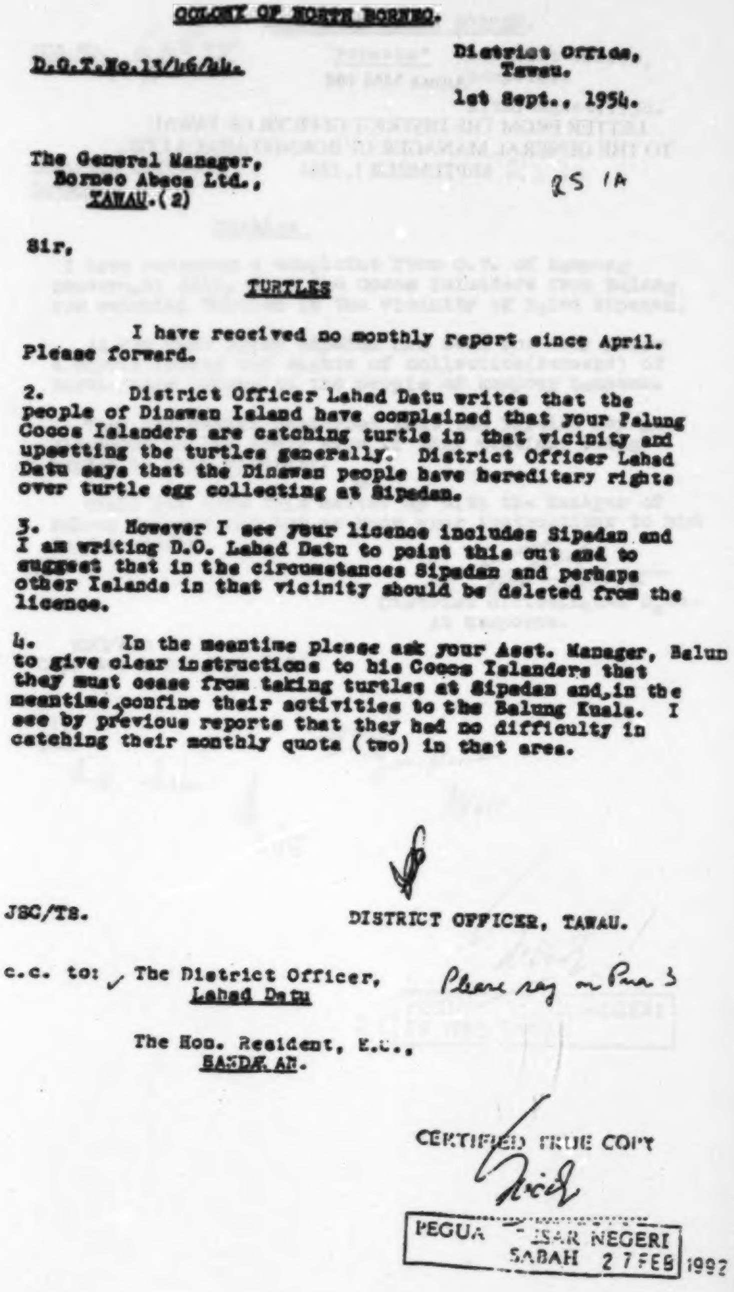
D.O.
Yes. Please

31/8

PEGU[illegible] NEGERI
27 EB 1992 SABAH

Annex MM 104

LETTER FROM THE DISTRICT OFFICER OF TAWAU TO THE GENERAL MANAGER OF BORNEO ABACA LTD., SEPTEMBER 1, 1954



COLONY OF NORTH BORNEO.

D.O.T.No.13/46/24.

District Office,
Tawau.

1st Sept., 1954.

The General Manager,
Borneo Abaca Ltd.,
TAWAU.(2)

25 /A

Sir,

TURTLES

I have received no monthly report since April. Please forward.

2. District Officer Lahad Datu writes that the people of Dinawan Island have complained that your Balung Cocos Islanders are catching turtle in that vicinity and upsetting the turtles generally. District Officer Lahad Datu says that the Dinawan people have hereditary rights over turtle egg collecting at Sipadan.

3. However I see your licence includes Sipadan and I am writing D.O. Lahad Datu to point this out and to suggest that in the circumstances Sipadan and perhaps other Islands in that vicinity should be deleted from the licence.

4. In the meantime please ask your Asst. Manager, Balung to give clear instructions to his Cocos Islanders that they must cease from taking turtles at Sipadan and, in the meantime, confine their activities to the Balung Kuala. I see by previous reports that they had no difficulty in catching their monthly quota (two) in that area.

JSC/TS.

DISTRICT OFFICER, TAWAU.

c.c. to: ✓ The District Officer,
Lahad Datu

Please say on Para 3

The Hon. Resident, E.C.,
SANDAKAN.

CERTIFIED TRUE COPY

PEGUA[illegible] [illegible]SAR NEGERI
SABAH 27 FEB 1997

Annex MM 105

EXTENSION OF THE 6 MAY 1916 LETTER SIGNED BY O.K.K. PANGLIMA ABDULLAH BIN PANGLIMA UDDANG, JULY 5, 1957

Committee of Investigation

N.C.S. 001/56/43 **Re Sipadan & Ligitan**

Appendix : C3

In pursuance of notice G.O 289/16

R.O.E.O. 39/16 issued in Lahad Datu on 6th May 1916

On the descendants of Pg. Abusari and Maharaja Mahamud

On this day 15th June 1957, the descendants of Panglima Abu Sari and Maharaja Mahamud produced the above-said notice in respect of their inherited rights. On investigation it was found that both the above-named have since passed away.

2. (a) The descendant of Panglima Abu Sari, Panglima Nujom, is the rightful heir to inherit this right.

(b) The descendant of Maharaja Mahamud, Kaneh bin Mj. Mahamud, is the rightful heir to inherit this right.

3. This notice is made to endorse the descendants of Pg. Abu Sari and Maharaja Mahamud who are entitled to the estate, and to collection rights of turtle eggs from Pulau Sipadan as per notice G.O. 289/16 R.O.E.O 39/16 and Panglima Udang's letter dated 18 .8. 1918.

O.K.K.Pg. Abdullah b Pg. Udang

R.M.C. Native Chief Grd. I.

Semporna.

Certified correct translation
of the original document:

8/9/99

SAUDAH ABDULLAH
Hon. Secretary
Malaysian Translators Association
c/o Dewan Bahasa & Pustaka
P. O. Box 10803
50926 Kuala Lumpur.

4. We as rightful descendants of our fathers, who during their time had surrendered 10 nights each from their respective turns to Pg. Udang, until today honour this arrangement to his descendants. We hereby sincerely make this notification to endorse that the descendants of Pg. Udang are empowered to claim the number of nights agreed thereto.

We the under-signed:

R.T.P of Pg. Nujum b Pg. Abu Sari

R.T.P. of Kaneh b Maharaja Mahamud

Issued at office of

Native Chief Semporna.

On: 5th July 1957

Witness: (……………………….)

Certified correct translation
of the original document
8/9/98
SALBIAH ABDULLAH
Hon. Secretary
Malaysian Translators Association
c/o Dewan Bahasa & Pustaka
P. O. Box 10803
50926 Kuala Lumpur.

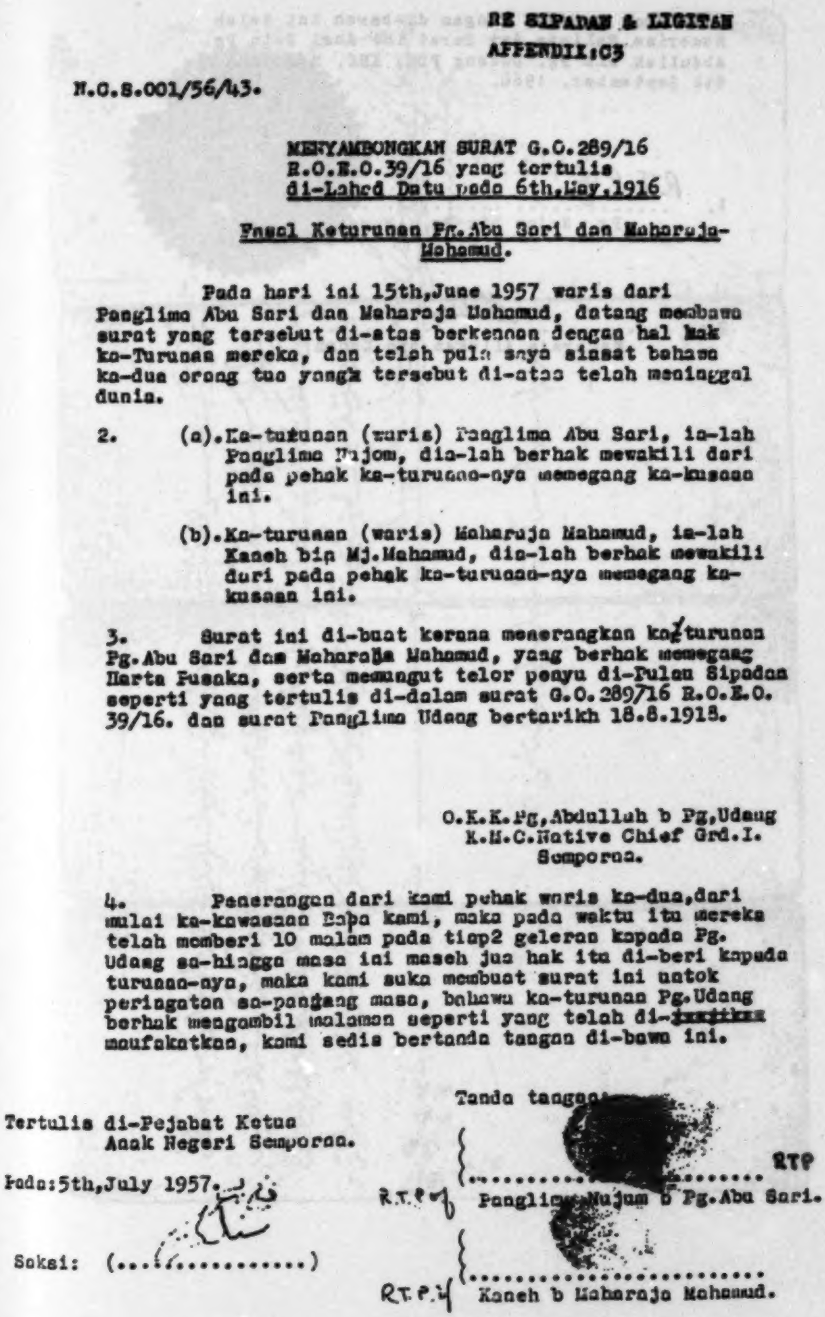
We the under-signed acknowledge receipt of a copy of this letter from Dato Pg. Abdullah bin Pg. Uddang PDK, KMC, MBE on 6th September, 1966.

1. R.T.P of

..
Pg. Nujum bin Pg. Abusari

2. ....
Maharaja Allukan bin Kaneh

Certified correct translation
of the original document
8/9/99
SA'ODAH ABDULLAH
Hon. Secretary
Malaysian Translators Association
c/o Dewan Bahasa & Pustaka
P. O. Box 10803
50926 Kuala Lumpur.



RE SIPADAN & LIGITAN
APPENDIX:C3

N.O.S.001/56/43.

MENYAMBONGKAN SURAT G.O.289/16
R.O.E.O.39/16 yang tertulis
di-Lahad Datu pada 6th,May,1916

Fasal Keturunan Pg.Abu Sari dan Maharaja-Mahamud.

Pada hari ini 15th,June 1957 waris dari Panglima Abu Sari dan Maharaja Mahamud, datang membawa surat yang tersebut di-atas berkenaan dengan hal hak ka-Turunan mereka, dan telah pula saya siasat bahawa ka-dua orang tua yang tersebut di-atas telah meninggal dunia.

2. (a).Ka-turunan (waris) Panglima Abu Sari, ia-lah Panglima Nujom, dia-lah berhak mewakili dari pada pehak ka-turunan-nya memegang ka-kuasaan ini.

(b).Ka-turunan (waris) Maharaja Mahamud, ia-lah Kaneh bin Mj.Mahamud, dia-lah berhak mewakili dari pada pehak ka-turunan-nya memegang ka-kuasaan ini.

3. Surat ini di-buat kerana menerangkan ka~~g~~turunan Pg.Abu Sari dan Maharaja Mahamud, yang berhak memegang Harta Pusaka, serta memungut telor penyu di-Pulau Sipadan seperti yang tertulis di-dalam surat G.O.289/16 R.O.E.O. 39/16. dan surat Panglima Udang bertarikh 18.8.1918.

O.K.K.Pg,Abdullah b Pg,Udang
K.M.C.Native Chief Grd.I.
Semporna.

4. Penerangan dari kami pehak waris ka-dua,dari mulai ka-kawasaan Bapa kami, maka pada waktu itu mereka telah memberi 10 malam pada tiap2 gelaran kapada Pg. Udang sa-hingga masa ini maseh jua hak itu di-beri kapada turunan-nya, maka kami suka membuat surat ini untok peringatan sa-panjang masa, bahawa ka-turunan Pg.Udang berhak mengambil malaman seperti yang telah di-~~[illegible]~~ maufakatkan, kami sedia bertanda tangan di-bawa ini.

Tanda tangan

Tertulis di-Pejabat Ketua
Anak Negeri Semporna.

Pada:5th,July 1957.

Saksi: (.........................)

RTP
....
R.T.P. of Panglima Nujum b Pg.Abu Sari.

....
R.T.P. 4 Kaneh b Maharaja Mahamud.

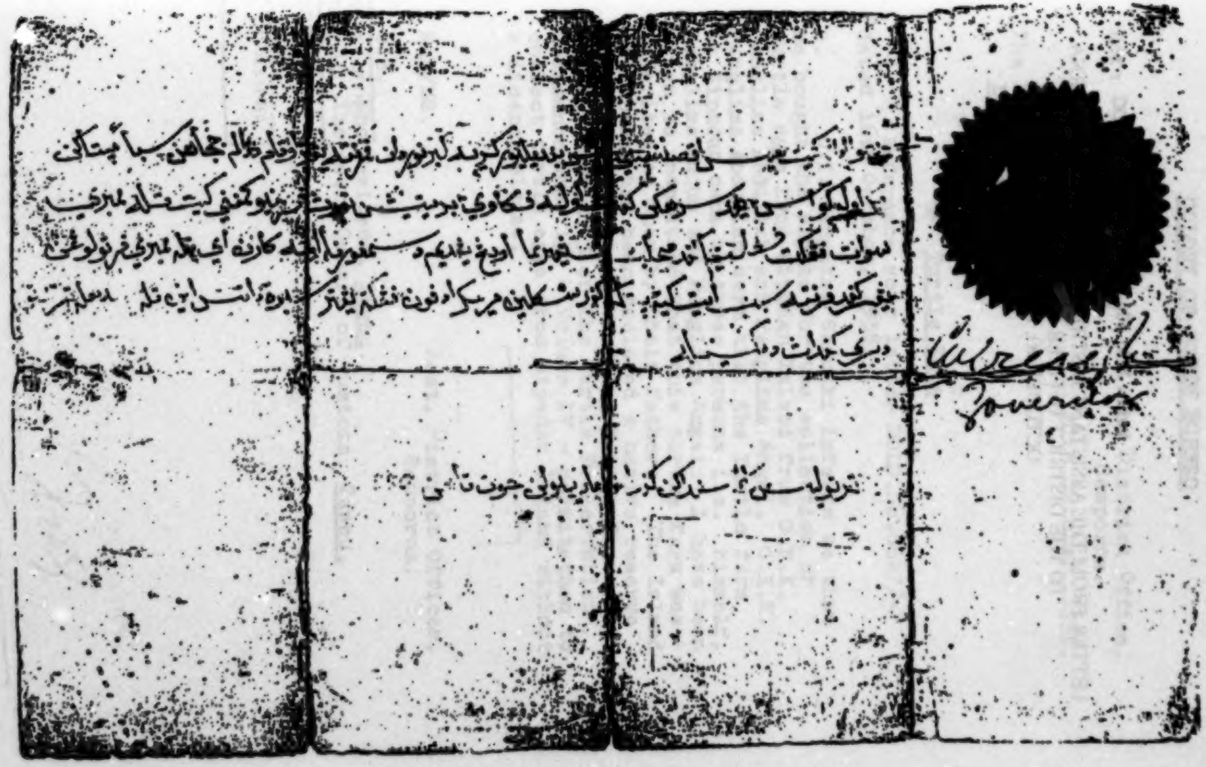
Kami Yang Menanda Tangan di-bawah ini telah Menerima Salinan ~~ini~~ Surat ini dari Dato Pg. Abdullah bin Pg. Uddang PDK, KMC, MBE pada 6th September, 1966.

R.T.P.

1. ....
Pg. Nujum bin Pg. Abusari

Allukan bin Kane

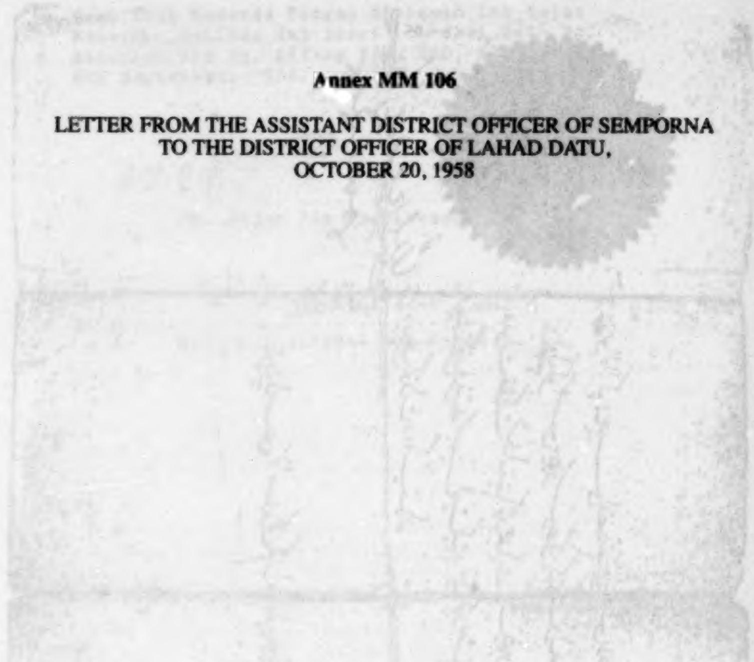
2. ....
Maharaja Allukan bin Kanah

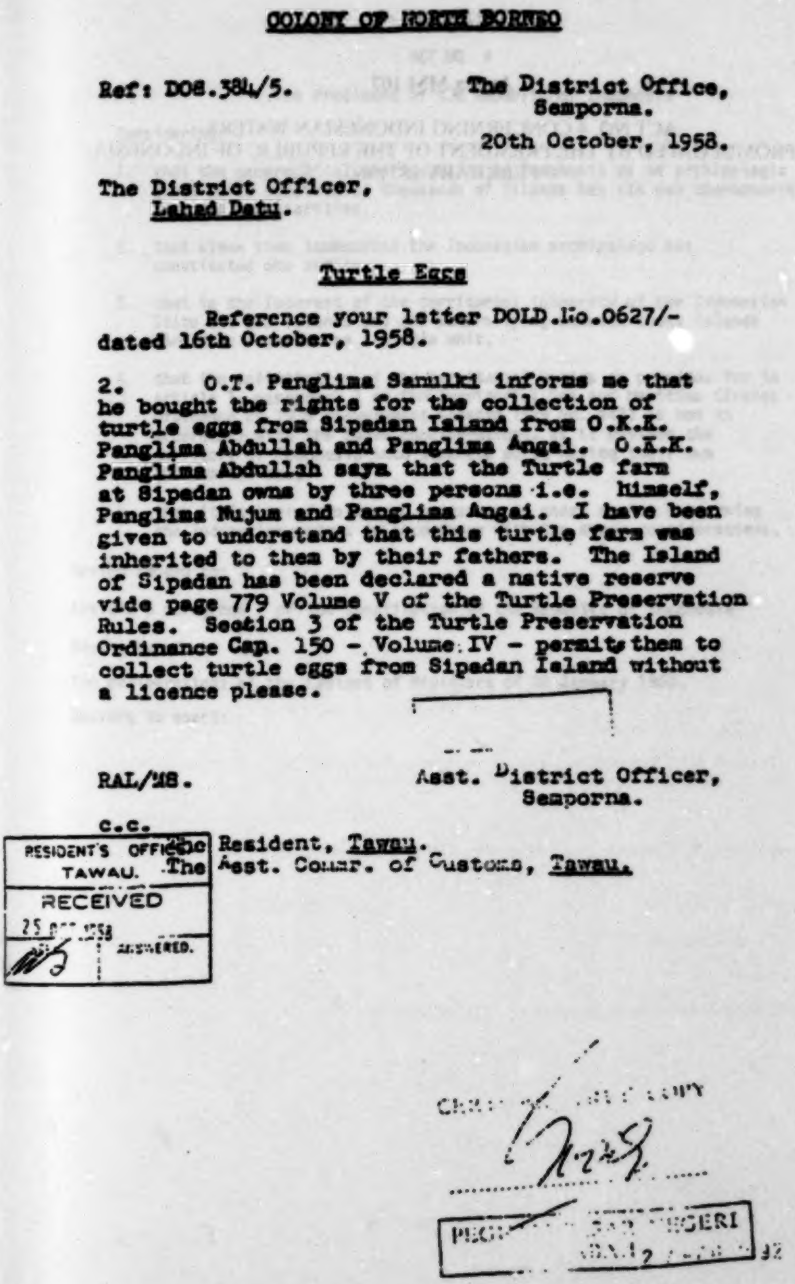


W. Treacher
Governor

Annex MM 106

LETTER FROM THE ASSISTANT DISTRICT OFFICER OF SEMPORNA TO THE DISTRICT OFFICER OF LAHAD DATU, OCTOBER 20, 1958





COLONY OF NORTH BORNEO

Ref: DOS.384/5.

The District Office,
Semporna.
20th October, 1958.

The District Officer,
Lahad Datu.

Turtle Eggs

Reference your letter DOLD.No.0627/- dated 16th October, 1958.

2. O.T. Panglima Samulki informs me that he bought the rights for the collection of turtle eggs from Sipadan Island from O.K.K. Panglima Abdullah and Panglima Angai. O.K.K. Panglima Abdullah says that the Turtle farm at Sipadan owns by three persons i.e. himself, Panglima Nujum and Panglima Angai. I have been given to understand that this turtle farm was inherited to them by their fathers. The Island of Sipadan has been declared a native reserve vide page 779 Volume V of the Turtle Preservation Rules. Section 3 of the Turtle Preservation Ordinance Cap. 150 - Volume IV - permits them to collect turtle eggs from Sipadan Island without a licence please.

RAL/MS.

Asst. District Officer,
Semporna.

c.c.
The Resident, Tawau.
The Asst. Commr. of Customs, Tawau.

RESIDENT'S OFFICE
TAWAU.
RECEIVED
25 [illegible] 1958
ANSWERED.

Annex MM 107

ACT NO. 4 CONCERNING INDONESIAN WATERS PROMULGATED BY THE PRESIDENT OF THE REPUBLIC OF INDONESIA, FEBRUARY 18, 1960

INDONESIA

ACT NO. 4

The President of the Republic of Indonesia

Considering:

1. that the geographical configuration of Indonesia as an archipelagic State which consists of thousands of islands has its own characteristics and peculiarities,

2. that since time immemorial the Indonesian archipelago has constituted one entity,

3. that in the interest of the territorial integrity of the Indonesian State all the islands and the waters lying between those islands should be regarded as a single unit,

4. that the delimitation of the territorial waters as provided for in article 1, paragraph 1 of the Territorial Sea and Maritime Circles Ordinance of 1939 (Government Gazette 1939 No. 442) is not in accordance with the above considerations, as it divided the territory of Indonesia into separate parts having their own territorial sea,

5. that it is therefore deemed necessary to enact an Act concerning the Indonesian waters in accordance with the above considerations,

Having regard to:

Article 5 paragraph I of the Constitution of the Republic of Indonesia

Having heard:

The deliberations of the Cabinet of Ministers of 20 January 1960,

Decides to enact:

Act Concerning Indonesian Waters:

Article 1

(1) The Indonesian waters consist of the territorial sea and the internal waters of Indonesia.

(2) The Indonesian territorial sea is a maritime belt of a width of 12 nautical miles, the outer limit of which is measured perpendicular to the baselines or points on the baselines which consist of straight lines connecting the outermost points on the low water mark of the outermost islands or part of such islands comprising Indonesian territory with the provision that in case straits of a width of not more than 24 nautical miles and Indonesia is not the only coastal state the outer limit of the Indonesian territorial sea shall be drawn at the middle of the strait.

(3) The Indonesian internal waters are all waters lying within the baselines mentioned in paragraph (2).

(4) One nautical mile is one sixtieth of a meridian.

Article 2

On the map annexed to this Act is indicated the position of the points and baselines mentioned in article 1 paragraph (2).

Article 3

(1) Innocent passage through the internal waters of Indonesia is open to foreign vessels.

(2) The innocent passage is mentioned in paragraph 1 shall be regulated by Government Ordinance.

Article 4

(1) This Act comes into force on the date of its promulgation.

(2) Article 1 paragraph 1 sub-paragraph 1 to 4 of the Territorial Sea and Maritime Circles' Ordinance of 1939 is no longer valid as from the date mentioned in paragraph 1.

In order that the Act be known to everybody whomsoever it is instructed that this Act be promulgated by publication in the Government Gazette.

Done at Djakarta on 18 February, 1960

Promulgated at Djakarta on 18 February, 1960

President of the Republic of Indonesia

Minister of Justice

sd. (SOEKARNO)

sd (SAHARDJO)

Published in Government Gazette No. 22, 18 February 1960.

LOCATION OF POINTS OF BASELINES OF THE INDONESIAN WATERS

Nota

U = Utara = North
S = Selatan = South
T = Timur = East
B = Barat = West

REFERENCE NUMBER	CO-ORDINATES OF POINTS						LOCATION
	LATITUDE			LONGITUDE			
1.	01°	- 13.8	U	104°	- 35.6	T	Tg. Berakit.
1A.	01	- 02.9	U	104	- 40.7	T	Sentut.
2.	00	- 56.0	U	104	- 55.8	T	Merapas.
3.	00	- 24.4	U	104	- 33.7	T	Kaju.
4.	00	- 18.0	S	105	- 01.0	T	Merenti
5.	00	- 46.7	S	104	- 56.2	T	Saja.
6.	01	- 08.5	S	105	- 16.9	T	P. Pekatjang.
7.	00	- 54.6	S	105	- 46.4	T	Toty.
8.	01	- 36.0	S	106	- 03.0	T	Penggul.
9.	02	- 16.4	S	106	- 28.7	T	-
10.	02	- 24.1	S	107	- 04.8	T	Gaspar.
11.	02	- 31.8	S	107	- 37.0	T	Langkuas.
12.	02	- 31.4	S	107	- 49.1	T	Tg. Siantu.
13.	02	- 38.5	S	108	- 12.2	T	Buoung Serlang.
14.	01	- 42.0	S	108	- 41.1	T	Serutu.
15.	01	- 16.9	S	108	- 52.4	T	Lemen.
16.	00	- 07.2	U	108	- 36.1	T	Datu.
17.	00	- 14.7	U	108	- 01.5	T	Pengiki.
18.	00	- 05.9	U	107	- 14.0	T	Pendjantan.
19.	00	- 33.1	U	106	- 58.2	T	Anak Awur.
20.	00	- 55.2	U	106	- 44.5	T	Tokong Kemudi.
21.	01	- 32.2	U	106	- 26.6	T	Kaju Ara.
22.	02	- 18.1	U	106	- 35.5	T	Malang Biru.
23.	02	- 44.6	U	105	- 23.0	T	Damar.
24.	03	- 05.5	U	105	- 35.0	T	Mangkai.
25.	03	- 19.8	U	105	- 57.0	T	Nanas.
26.	03	- 26.5	U	106	- 16.0	T	Balajar.
27.	03	- 18.0	U	107	- 33.9	T	Noord Hooiberg.
28.	03	- 55.0	U	107	- 54.0	T	Salor.
29.	04	- 31.1	U	107	- 43.9	T	Semiun.
30.	04	- 48.0	U	108	- 01.9	T	Sekatoeng.
31.	04	- 01.1	U	108	- 25.9	T	Senua.
32.	03	- 03.3	U	108	- 52.2	T	Subi.
33.	02	- 38.5	U	109	- 10.5	T	Kepala.
34.	02	- 04.1	U	109	- 06.9	T	Merundung.
35.	02	- 05.2	U	109	- 38.3	T	Tg. Datu.
36.	04	- 10.0	U	117	- 53.7	T	Tg. Selma.
36A.	04	- 07.6	U	117	- 55.3	T	-
36B.	04	- 03.7	U	117	- 55.5	T	-
37.	03	- 20.5	U	117	- 52.5	T	Tg. Arang.
38.	02	- 22.2	U	118	- 12.2	T	Pandjang.
39.	02	- 19.0	U	118	- 33.8	T	Tg. Bui Tuwattan.
40.	01	- 46.4	U	119	- 01.7	T	Sambit.

LOCATION OF POINTS OF BASELINES OF THE INDONESIAN WATERS (Cont'd)

REFERENCE NUMBER	CO-ORDINATES OF POINTS						LOCATION
	LATITUDE			LONGITUDE			
41.	01°	- 01.3	U	118°	- 59.5	T	Tg. Mangkalihat.
42.	00	- 35.5	U	119	- 47.9	T	Tuguan.
43.	01	- 00.5	U	120	- 12.8	T	Lingian.
44.	01	- 20.5	U	120	- 47.6	T	Straat Kaper.
44A.	01	- 22.6	U	120	- 53.5	T	Dalangan.
45.	01	- 19.2	U	121	- 28.1	T	M. Kandi.
46.	01	- 02.2	U	122	- 27.0	T	Tg. Sumalata.
47.	00	- 58.0	U	123	- 15.0	T	Tg. Dulang.
48.	01	- 09.6	U	124	- 20.1	T	Tg. Laimpangi.
49:	01	- 46.2	U	124	- 43.9	T	Yantaramau.
50.	02	- 21.5	U	125	- 17.6	T	Pasige.
51.	02	- 44.5	U	125	- 9.5	T	Makalehi.
52.	03	- 42.9	U	125	- 23.9	T	Tg. Talawid.
53.	04	- 14.0	U	125	- 19.1	T	Kawalusu.
54.	04	- 40.4	U	125	- 25.6	T	Kawio.
55.	04	- 44.5	U	125	- 28.5	T	Marore.
56.	05	- 34.8	U	126	- 36.5	T	Miangas.
57.	04	- 45.0	U	127	- 09.0	T	Marampit.
58.	04	- 37.4	U	127	- 09.2	T	Kakarutan.
59.	03	- 46.4	U	126	- 51.2	T	Darnau.
60.	02	- 38.5	U	128	- 33.5	T	Tg. Sopi.
61.	02	- 30.2	U	128	- 40.4	T	Tg. Gorango.
62.	01	- 32.7	U	128	- 43.9	T	Gam Tjaka.
63.	00	- 43.5	U	129	- 08.1	T	Jiew.
64.	00	- 20.8	U	129	- 52.4	T	Ai.
65.	00	- 32.0	U	130	- 44.0	T	Budd.
66.	01	- 04.7	U	131	- 15.6	T	Fani.
67.	00	- 36.0	U	131	- 11.9	T	Aju eiln.
68.	00	- 11.0	S	131	- 18.8	T	M. Lamarche.
69.	00	- 43.5	S	131	- 32.5	T	Dore Hoom Bi.
70.	00	- 20.2	S	132	- 10.5	T	Mios Soe.
71.	00	- 21.8	S	132	- 43.0	T	Valsche Kaap.
72.	00	- 56.8	U	134	- 17.2	T	Mapia Eil.
73.	00	- 11.6	S	134	- 59.1	T	Ajawi.
74.	00	- 23.5	S	135	- 16.1	T	Bepondi.
75.	00	- 41.4	S	135	- 23.5	T	Tg. Imbieri.
76.	00	- 42.1	S	135	- 48.5	T	Tg. Praisbari.
77.	01	- 04.9	S	136	- 23.3	T	Tg. Wareri.
78.	01	- 27.8	S	137	- 55.0	T	Hoek d. Urville.
79.	01	- 35.5	S	138	- 43.0	T	Liwi.
80.	02	- 18,5	S	140	- 07.0	T	Tg. Kamdara.
80A.	02	- 26.2	S	140	- 36.9	T	-
81.	02	- 36.2	S	141	- 00.0	T	Oinaka.
82.	09	- 12.7	S	141	- 01.7	T	-
83.	09	- 00.4	S	140	- 49.9	T	Wanam.
84.	08	- 09.9	S	139	- 52.8	T	Biak R.
85.	08	- 12.8	S	139	- 20.0	T	Weleb.
86.	08	- 22.9	S	138	- 54.6	T	Kaap Kaol.
87.	08	- 25.1	S	138	- 47.7	T	Hom Boom.
88.	08	- 27.0	S	137	- 35.1	T	Kaap Valsch.
89.	06	- 55.1	S	138	- 32.5	T	De Jong's punt.
90.	06	- 22.0	S	138	- 24.5	T	Cook R.

LOCATION OF POINTS OF BASELINES OF THE INDONESIAN WATERS (Cont'd)

REFERENCE NUMBER	CO-ORDINATES OF POINTS						LOCATION
	LATITUDE			LONGITUDE			
91.	05°	- 43.1	S	138°	- 05.0	T	-
92.	05	- 22.5	S	137	- 43.0	T	Laag E.
93.	04	- 55.0	S	136	- 49.8	T	Kp. Steenboom.
94.	04	- 38.8	S	136	- 07.0	T	Amarapaja.
95.	04	- 27.7	S	135	- 12.8	T	Tg. Namaripi.
96.	06	- 19.3	S	134	- 35.0	T	Warilade.
97.	06	- 22.4	S	134	- 44.1	T	Ujedah Ell.
98.	06	- 04.5	S	134	- 52.0	T	Kamora eil.
99.	06	- 19.7	S	134	- 52.2	T	Penambulai.
100.	06	- 52.5	S	134	- 43.4	T	Kultu bai.
101A.	07	- 01.8	S	134	- 40.1	T	Karang.
101.	07	- 07.0	S	134	- 28.9	T	Enu.
102.	06	- 57.2	S	134	- 10.6	T	Tg. Ngabordamlu.
103.	06	- 00.5	S	132	- 50.2	T	Tg. Weduar.
104.	07	- 15.0	S	131	- 59.0	T	Larat.
105.	08	- 03.8	S	131	- 17.5	T	Asutubun.
106.	08	- 08.0	S	131	- 10.5	T	Adaut.
107.	08	- 21.6	S	130	- 48.5	T	Bat Artdumu.
108.	08	- 13.7	S	129	- 50.1	T	Masela.
109.	08	- 22.0	S	128	- 31.0	T	Meaty Miarang.
110.	08	- 14.9	S	127	- 38.0	T	Luhulele.
111.	08	- 06.4	S	127	- 09.5	T	Jam Tu.
112.	07	- 58.7	S	126	- 28.2	T	Eden.
113.	08	- 01.1	S	125	- 48.6	T	Pibia.
114.	08	59.0	S	124	- 24.0	T	-
115.	09	- 08.0	S	124	- 00.0	T	-
116.	09	- 28,0	S	125	- 05.1	T	Mota Massin.
117.	09	- 38:3	S	124	- 58.7	T	Tg. We Toh.
118.	10	- 09.1	S	125	- 00.0	T	-
119.	10	- 16.5	S	124	- 01.0	T	-
120.	10	- 49.6	S	123	- 13.4	T	Puleh.
121.	11	- 00.9	S	122	- 52.5	T	Dana.
122.	10	- 37.5	S	121	- 50.8	T	Tg. Merabu.
123.	10	- 50.0	S	121	- 17.0	T	Dana.
124.	10	- 19.0	S	120	- 27.2	T	Tg. Ngadju.
125.	10	- 20.6	S	120	- 06.8	T	Atangudu.
126.	09	- 48.0	S	119	- 23.6	T	Tg. Rua.
127.	09	- 45.5	S	119	- 11.6	T	Tg. Mambo.
128.	09	- 40.5	S	119	- 02.0	T	-
129.	08	- 53.6	S	118	- 29.3	T	Toro Doro.
130.	09	- 06.8	S	117	- 02.0	T	Tg. Talonan.
131.	08	- 54.9	S	116	- 00.0	T	Tg. Pangga.
132.	08	- 50.0	S	115	- 50.3	T	Tg. Bt. Gendang.
133.	08	- 49.4	S	115	- 35.9	T	Nusa.
134.	08	- 51.0	S	115	- 08.1	T	Tafelhoek.
135.	08	- 46.4	S	114	- 30.9	T	Tg. Bantenan.
136.	08	- 44.5	S	114	- 20.8	T	Tg. Purwa.
137.	08	- 39.0	S	114	- 01.5	T	Mustaka.
138.	08	- 30.0	S	113	- 18.3	T	Barung.
139.	08	- 24.0	S	111	- 42.2	T	Skel.
140.	08	- 12.1	S	110	- 42.2	T	-
141.	08	- 08.5	S	110	- 33.0	T	-

LOCATION OF POINTS OF BASELINES OF THE INDONESIAN WATERS (Cont'd)

REFERENCE NUMBER	CO-ORDINATES OF POINTS						LOCATION
	LATITUDE			LONGITUDE			
142.	07°	- 47.0	S	109°	- 25.2	T	Bt. Tugur.
143.	07	- 47.5	S	109	- 02.1	T	Kambangan.
144.	07	- 49.0	S	108	- 26.1	T	-
145.	07	- 44.9	S	107	- 50.0	T	Tg. Gedeh.
146.	07	- 23.2	S	106	- 24.5	T	Gentang.
147.	07	- 01.2	S	105	- 31.6	T	Deli.
148.	06	- 50.5	S	105	- 14.5	T	Tg. Goha Kolah.
149.	06	- 37.8	S	105	- 06.0	T	Ganalla.
150.	05	- 57.0	S	104	- 35.8	T	Balimbing.
151.	05	- 39.1	S	104	- 18.1	T	-
152.	05	- 14.5	S	103	- 54.5	T	Og. Walor.
153.	04	- 49.0	S	103	- 20.1	T	Tg. Bandar.
154.	05	- 33.1	S	102	- 19.0	T	-
155.	05	- 22.1	S	102	- 06.3	T	Tg. Kooma.
156.	04	- 02.0	S	101	- 02.1	T	Mega.
157.	03	- 21.3	S	100	- 27.8	T	-
158.	03	- 18.0	S	100	- 19.9	T	Baru - Baru.
159.	02	- 50.0	S	99	- 59.6	T	Tg. Ratai.
160.	02	- 18.0	S	99	- 36.2	T	Tg. Simailupa.
161.	01	- 41.0	S	98	- 52.8	T	Siberut.
162.	01	- 12.4	S	98	- 35.0	T	Siberut.
163.	00	- 31.8	S	98	- 17.0	T	Tg. Matik.
164.	00	- 05.5	S	97	- 51.0	T	Semak.
165.	00	- 35.2	U	97	- 40.2	T	Laguadi.
166.	00	- 49.8	U	97	- 20.0	T	Bawa.
167.	01	- 12.0	U	97	- 04.7	T	Wunga.
168.	01	- 24.1	U	97	- 03.1	T	Tg. Tojolawa.
169.	02	- 04.1	U	96	- 37.5	T	Babi.
170.	02	- 38.0	U	95	- 47.0	T	-
171.	02	- 58.9	U	95	- 23.0	T	Kokos Eil.
172.	04	- 07.5	U	96	- 06.7	T	Meulaboh.
173.	04	- 36.9	U	95	- 34.0	T	Tjalang Bi.
174.	04	- 52.0	U	95	- 22.0	T	Roja.
175.	05	- 17.0	U	95	- 11.9	T	Rusa.
176.	05	- 48.0	U	94	- 57.5	T	Noord West E.
177.	06	- 05.0	U	95	- 07.0	T	Rondo.
178.	05	- 54.0	U	95	- 20.0	T	Ie Meule.
179.	05	- 30.4	U	95	- 53.0	T	Og. Pidie.
180.	05	- 16.5	U	96	- 49.5	T	Og. Peusangan.
181.	05	- 17.0	U	97	- 29.0	T	-
182.	04	- 53.0	U	97	- 55.0	T	Og. Peureula.
183.	03	- 55.3	U	98	- 40.2	T	Og. Tamiang.
184.	03	- 47.4	U	99	- 29.6	T	Berhala.
185.	02	- 52.0	U	100	- 33.8	T	Noordrots.
186.	02	- 9.4	U	101	- 39.5	T	Tg. Medang.
187.	01	- 06.0	U	102	- 59.0	T	Tg. Kedabu.
188.	01	- 11.6	U	103	- 21.0	T	Iju.
189.	01	- 10.0	U	103	- 23.4	T	Kariman.
190.	01	- 09.2	U	103	- 39.3	T	Ripa.
191.	01	- 7.9	U	103	- 42.0	T	-
192.	01	- 10.9	U	103	- 52.9	T	Berhanti.
193.	01	- 12.5	U	104	- 04.3	T	Nongsa.
194.	01	- 12.3	U	104	- 23.5	T	Tg. Sading.
195.	01	- 13.8	U	104	- 35.6	T	Tg. Berakit.

Annex MM 108

COLONY OF NORTH BORNEO ANNUAL REPORT 1960

COLONY OF NORTH BORNEO
ANNUAL REPORT, 1960

Published by Authority

GOVERNMENT PRINTING DEPARTMENT, JESSELTON, NORTH BORNEO

Development of Navigational Aids

In 1960, an application was made for assistance from Colonial Development and Welfare funds for the development of navigational aids and facilities at a total estimated cost of $1,050,000. The grant which was approved just after the end of the year provides for:

(*a*) the construction of a lighthouse tender vessel;

(*b*) lights on the Winchester and Deluar Shoals to assist night passage between Labuan and Jesselton;

(*c*) extensive lighting of the reefs and shoals in Kudat and Jesselton harbours;

(*d*) additional lights in the Malawalle Channel to open up the shorter inshore route between Sandakan and the West Coast ports;

(*e*) light towers at Tungku, Church Reef, Tarapan in the Darvel Bay area and various other secondary lights in the Darvel Bay area including landfall light at Bohihan and range lights at Kunak;

(*f*) the establishment of 15 mile lights at Mataking, Sipadan and Hard Rock to assist navigation of vessels between Tawau and Sandakan using the Alice Channel route, and of secondary lights on the inshore channel for the Tawau/Semporna route;

(*g*) the construction of landing jetties and landing places at lighthouse sites and of increased fuel storage facilities.

Government Vessels, Launches and Marine Craft

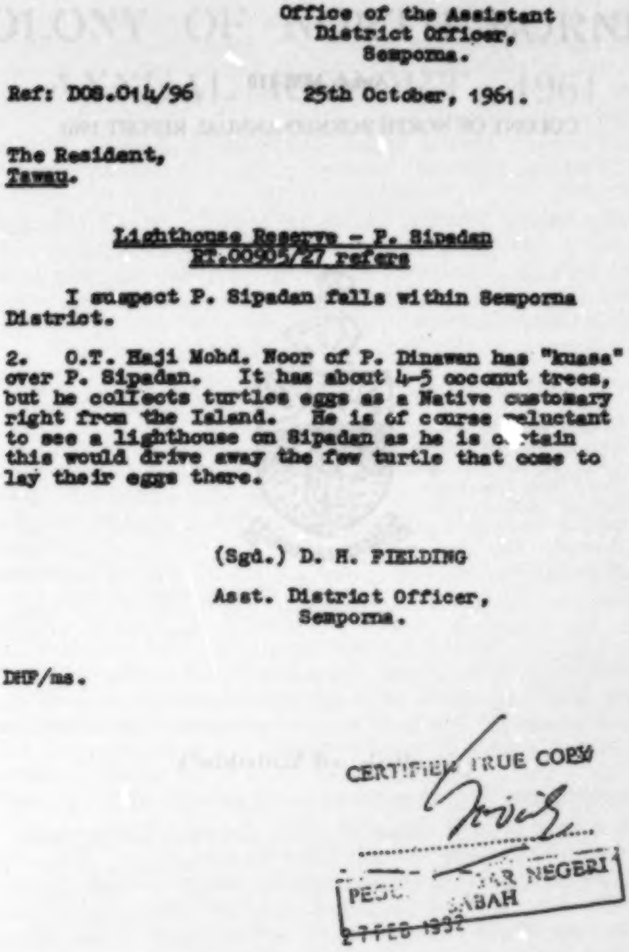
The number of Government craft maintained during the year, and administered by the following departments were:

	Sea-going	*Harbour*	*Riverine*
Marine ...	3	5	—
Police ...	3	—	8
Forestry ...	1	—	35
Public Works ...	1	—	—
Administration	6	—	7
Total ...	14	5	50

Two new Pilot Launches are under construction and delivery is expected early in 1961. Tenders for the construction of one Lighthouse Tender Vessel and one Tug/Fire Float have been received and are under consideration.

Annex MM 109

LETTER FROM ASSISTANT DISTRICT OFFICER OF SEMPORNA TO THE RESIDENT OF TAWAU, OCTOBER 25, 1961



Office of the Assistant
District Officer,
Semporna.

Ref: DOS.014/96 25th October, 1961.

The Resident,
Tawau.

Lighthouse Reserve - P. Sipadan
RT.00905/27 refers

I suspect P. Sipadan falls within Semporna District.

2. O.T. Haji Mohd. Noor of P. Dinawan has "kuasa" over P. Sipadan. It has about 4-5 coconut trees, but he collects turtles eggs as a Native customary right from the Island. He is of course reluctant to see a lighthouse on Sipadan as he is certain this would drive away the few turtle that come to lay their eggs there.

(Sgd.) D. H. FIELDING

Asst. District Officer,
Semporna.

DHF/ms.

CERTIFIED TRUE COPY

PEGU [illegible] AR NEGERI
SABAH
27 FEB 1992

Annex MM 110

COLONY OF NORTH BORNEO ANNUAL REPORT 1961

COLONY OF NORTH BORNEO
ANNUAL REPORT, 1961

Published by Authority

GOVERNMENT PRINTING DEPARTMENT, JESSELTON, NORTH BORNEO

The Malayan Stevedoring Company operates a lighterage service with three towing vessels and seven lighters totalling 1,919 gross tons as stone carriers between Temburong and Brunei and timber from Kuala Belait, Brunei, Limbang, Lawas, Weston and Mempakul to Labuan.

One 250-ton coastal tanker belonging to Reynell Transportation Company operates between Labuan/Jesselton/Brunei/Sibu and Kuching.

Other locally operated vessels of over fifteen net tons totalled 135 with a total gross tonnage of 9,984. These included lighters, barges, kumpits, launches and towing units, the majority of which are owned and operated by timber companies in the Sandakan and East Coast Districts.

A summary of the local shipping is as follows:

Name		*No. of Vessels*	*Gross Tonnage*
British Borneo Timber Co. Ltd.	...	15	1,086
North Borneo Timbers Ltd.	...	10	1,005
River Estates Limited	... ...	7	509
Shing Kee Company	... ...	9	820
Borneo Abaca Limited	... ...	6	720
Bombay Burmah Trading Corpn. Ltd.	...	8	1,092
Kennedy Bay Timber Company	...	7	549
Miscellaneous	... ...	73	4,203
TOTAL	...	135	9,984

In addition to the above, local small craft under fifteen NRT totalling 2,397 are used as cargo, passenger and towing service to and from minor ports, rivers and outlying districts where the use of larger vessels is uneconomical.

Development and Maintenance of Navigational Aids

The 5 year scheme financed from Colonial Development and Welfare Funds proceeded satisfactorily during the year. Orders for new light equipment and accessories placed through the Crown Agents in June arrived in late December, whilst further orders made in August are expected to be to hand early in the new year. Four steel lattice work towers (*ex* oil production derricks) purchased from Brunei Shell Petroleum Company in February were suitably modified and prepared for erection at the proposed secondary light sites.

New construction works under the scheme completed during the year were as follows:

(i) 75-foot Light Tower at Tungku Point (Darvel Bay) with 300-mm acetylene lantern established in August.

(ii) 80-foot Light Tower at Mataking (Darvel Bay) with 300-mm acetylene lantern established in October.

(iii) 75-foot Light Tower at Sipadan (Alice Channel) completed in October: 300-mm light to be established early next year.

(iv) Light Beacon at Horn Reef (Ligitan Channel) completed in October: 300-mm light to be established early next year.

(v) Light Beacon at Sky Rock (vicinity of Kukuban Island) in the Malawali Channel with 250-mm battery-operated Chance Lantern established in August.

(vi) The removal of the existing 300-mm light at Kalampunian Island and installation of a 500-mm Lantern with increased candle power, and strengthening by concrete of the tower structure.

(vii) The establishment of 5-mark beacons in Jambongan harbour in November.

Other construction work completed outside the scheme included the reconstruction and re-establishment of the range lights on towers at Bakapit and Wallace Bay. These lights which were withdrawn two years ago were re-established in July and December respectively.

Experiments are constantly being carried on with new type light equipment in order to discover the most efficient and economical means of lighting the North Borneo coast. Recent advances in this field include the substitution of moulded acrylics for ground glass, resulting in equal candle-power at smaller cost and weight, and disposable electric cells which eliminate the high capital cost and difficulty of transport of wet accumulators.

The total number of navigational aids maintained by the department, extending from Brunei Bay on the West to Cowie Harbour on the East, are as follows:

(i) Lighthouses	5
(ii) Secondary Lights	9
(iii) Light Beacons	18
(iv) Light Buoys	5
(v) Port Lights	6
(vi) Leading Range Lights (3 sets)	6
(vii) Mark Buoys .. .	5
(viii) Coastal Mark Beacons (units)	55
(ix) Harbour Channel Beacons (units)	185
(x) Steamer Mooring Buoy ...	1

All construction and maintenance of structures is carried out departmentally as a joint commitment of Workshops and Lighthouse Divisions.

Annex MM 111

NOTICE TO MARINERS NO. 9 OF 1962
ISSUED BY THE DIRECTOR OF MARINE,
JULY 10, 1962

COLONY OF NORTH BORNEO

NOTICE TO MARINERS **AMENDED NOTICE NO.9 OF 1962**

BORNEO - EAST COAST - SIBUKO BAY
(PULO SIPADAN)

LIGHT ESTABLISHED

A light has been established in position -

Latitude - 4° 06' 39" North

Longitude - 118° 37' 56" East

Abridged Description - Gp. Fl.(3) 20 secs. 80 ft. 14M.

Details - Light is obscured from 214° through South to 110° and exhibited from a steel lattice tower 72 feet high painted white.

J. Wells

JW/11 for Director of Marine

Authority - Marine Dept. Labuan

British Charts affected - 1263, 2660B, 2576, 1681.

Publications affected - Eastern Archipelago Pilot Vol.I
Admiralty List of Lights Vol. 6

LABUAN - 10 th July 1962

SABAH
07 FEB 1992

Annex MM 112

LETTER FROM THE RESIDENT OF TAWAU TO THE DISTRICT OFFICER OF SEMPORNA, DECEMBER 22, 1962

00388/119. 22nd December, 62

District Officer,
SEMPORNA.

TURTLE PRESERVATION
REF:DOS. 384/8 OF 11.12.62.

Do not confuse the two matters of licences to kill turtles and licences to take turtle eggs. Sipadan is a reserve as you say but it is reserved only in connection with the collection of turtle eggs - see Laws Vol.V page 779. Thus any person wishing to kill turtles on or in the vicinity of Sipadan ought to be licensed, whether or not any 'rights' have been inherited.

P. G. EDGE

PGE/KC. RESIDENT, TAWAU.

K. I. V. days

[illegible]

27 FEB 1963

Annex MM 113

NOTICE TO MARINERS NO. 6 OF 1963, ISSUED BY THE DIRECTOR OF MARINE, JULY 17, 1963

COLONY OF NORTH BORNEO

NOTICE TO MARINERS **NO. 6 OF 1963**

BORNEO EAST COAST, SIBUKO BAY

'LIGITAN REEF'

i) A light has been established on the small islet in the South part of Ligitan Reef, position

Lat. 04° - 09' - 48" N.
Long. 118° - 53' - 04" E.

ii) The structure is tubular steel painted R.W.E.S.

iii) Abridged description - Fl.5 sec. 33 ft., 11 M.

AUTHORITY - DIRECTOR OF MARINE
BRITISH ADMIRALTY CHARTS AFFECTED - 1681
PUBLICATION AFFECTED - Eastern Archipelago Pilot Vol.1
List of lights, Vol. 6

Signed: S.K. YOUNG
for DIRECTOR OF MARINE

SKY/mjp

LABUAN - 17TH JULY 1963

CERTIFIED TRUE COPY
SABAH
[illegible] FEB 1992

Annex MM 114

CHART OF THE CONCESSION BLOCK GRANTED TO JAPEX BY THE GOVERNMENT OF INDONESIA, JANUARY 19, 1967

SALINAN

PRESIDEN
REPUBLIK INDONESIA

KEPUTUSAN PRESIDEN REPUBLIK INDONESIA
NOMOR 44 TAHUN 1972
TENTANG
PENETAPAN WILAJAH-WILAJAH KUASA PERTAMBANGAN PERTAMINA SEBAGAI WILAJAH KERDJA KONTRAKTOR BERDASARKAN PERDJANDJIN PRODUCTION SHARING

PRESIDEN REPUBLIK INDONESIA,

Menimbang : bahwa sebagai pelaksanaan Peraturan Pemerintah Republik Indonesia Nomor 29 Tahun 1969 (Lembaran Negara Republik Indonesia Tahun 1969 Nomor 52, Tambahan Lembaran Negara Republik Indonesia Nomor 2910), dianggap perlu untuk segera menetapkan kembali batas wilajah kuasa pertambangan PERTAMINA jang merupakan wilajah kerdja kontraktor berdasarkan Perdjandjian Production Sharing.

Mengingat :
1. Pasal 4 ajat (1) Undang-undang Dasar 1945
2. Undang-undang Nomor 4 Prp. Tahun 1960 (Lembaran Negara Republik Indonesia Tahun 1960 Nomor 22, Tambahan Lembaran Negara Republik Indonesia Nomor 1942)
3. Undang-undang Nomor 44 Prp. Tahun 1960 (Lembaran Negara Republik Indonesia Tahun 1960 Nomor 133, Tambahan Lembaran Negara Republik Indonesia Nomor 2070) ;
4. Undang-undang Nomor 19 Tahun 1961 (Lembaran Negara Republik Indonesia Tahun 1961 Nomor 276, Tambahan Lembaran Negara Republik Indonesia Nomor 2318) ;
5. Undang-undang Republik Indonesia Nomor 2 Tahun 1971 (Lembaran Negara Republik Indonesia Tahun 1971 Nomor 16, Tambahan Lembaran Negara Republik Indonesi Nomor 2957)

Undang ....

garis pantai rata-rata air pasang tersebut ketitik B jang merupakan titik perpotongan antara garis pantai rata-rata air pasang dengan garis Budjur Timur 96°30'00"; kemudian ke Utara ketitik T dengan koordinat 05°18'00" L.U., 96°30'00" B.T.; kemudian ke Utara ketitik permulaan A.

Luas daerah jang digambarkan diatas adalah ± 19.405 km persegi.

(2). Batas-batas wilajah kuasa pertambangan PERTAMINA didaerah-daerah lepas pantai Bunju dan Mahakam sebagai wilajah kerdja JAPEX INDONESIA LTD. berdasarkan Perdjandjian Production Sharing tanggal 6 Oktober 1966 sebagaimana telah dirubah, jang telah disahkan oleh Pemerintah dengan Surat Ketua Presidium Kabinet Ampera No. B-9./Pres-Kab/1/1967 tanggal 19 Djanuari 1967 - selandjutnja disebut wilajah kerdja - adalah sebagai berikut :

A. Daerah lepas pantai-Bunju.

Dengan menggunakan systeem koordinat Greenwich, dimulai dari titik A dengan koordinat 04°09'30" L.U., 117°32'30" B.T. ke Timur ketitik B dengan koordinat 04°09'30" L.U., 118°17'00"B.T.; kemudian kearah Selatan - Barat Daja ketitik C dengan koordinat 02°42'40"L.U., 117°56'55"B.T.; kemudian ke Tenggara ketitik D dengan koordinat 02°38'40" L.U., 118°00'00" B.T.; kemudian ke Tenggara ke titik E dengan koordinat 02°00'00" L.U., 118°30'20" B.T.; kemudian ke Barat ketitik F dengan koordinat 02°00'00" L.U., 117°50'00" B.T.; kemudian kearah Timur Laut ketitik G dengan koordinat 02°17'50" L.U., 118°04'50"B.T. ;

kemudian .....

kemudian kearah Barat Laut ketitik H dengan koordinat 03°13'00" L.U., 117°17'30" B.T.; kemudian kearah Timur Laut ketitik I dengan koordinat 03°34'30" L.U., 117°29'30" B.T.; kemudian kearah Timur Laut ketitik J dengan koordinat 03° 42'40" L.U., 117°48'40" B.T.; kemudian kearah Barat Laut ketitik K dengan koordinat 04°02'30" L.U., 117°30'20" B.T.; kemudian kearah Utara - Timur Laut ketitik permulaan A.

Pulau Bunju, Pulau Tarakan, pulau-pulau lain dan daerah daratan tidak termasuk dalam wilajah kerdja tersebut.

Luas daerah jang digambarkan diatas adalah ± 9280 km persegi.

B. Daerah lepas pantai Mañakam.

Dengan menggunakan systeem koordinat Greenwich, dimulai dari titik A jang merupakan titik perpotongan antara garis pantai rata-rata air pasang sebelah Timur Kalimantan dengan garis Lintang Selatan 00°04'50" kearah Tenggara ketitik B dengan koordinat 00°24'40" L.S., 118° 03' 00" B.T.; kemudian kearah Barat Daja ketitik C dengan koordinat 01°33'20" L.S., 117°25'20"B.T.; kemudian kearah Barat Laut ketitik D dengan koordinat 01°29'00" L.S., 117°17'40" B.T.; kemudian kearah Barat Daja ketitik E dengan koordinat 02°15'35" L.S., 116°52'00" B.T.; kemudian kearah Barat Laut ketitik F jang merupakan titik perpotongan antara garis pantai rata-rata air

pasang ......

Pasal 29

Keputusan Presiden ini mulai berlaku pada tanggal ditetapkan.

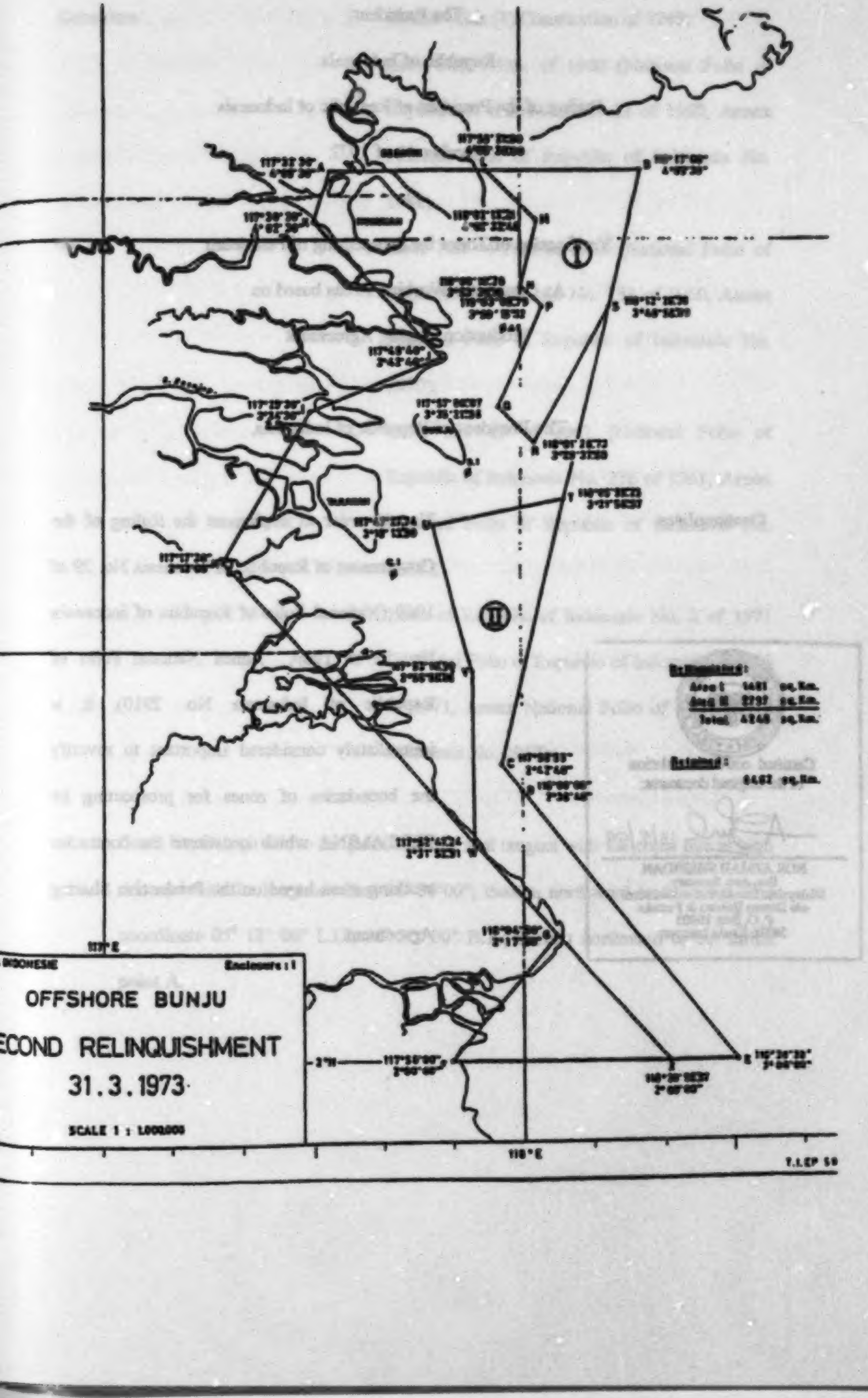
Ditetapkan di Djakarta
pada tanggal 23 Djuni 1972.-

PRESIDEN REPUBLIK INDONESIA,

ttd.

SOEHARTO
DJENDERAL -T.N.I

Disalin sesuai aslinja oleh
SEKRETARIAT KABINET


I
II
Relinquished:
Area I 1451 sq.Km.
Area II 2797 sq.Km.
Total 4248 sq.Km.
Retained:
6462 sq.Km.
117° E
118° E
2°N
INDONESIE
Enclosure: 1
OFFSHORE BUNJU
ECOND RELINQUISHMENT
31.3.1973
SCALE 1 : 1,000,000
T.I.EP 59

The President

Republic of Indonesia

Ruling of the President of Republic of Indonesia

Number 44 of 1972

On

Verification of Zones for Prospecting of Petroleum As Contractor Working Areas based on Production sharing Agreement

The President of Republic of Indonesia,

Contemplates : That in order to implement the Ruling of the Government of Republic of Indonesia No. 29 of 1969 (National Folio of Republic of Indonesia No. 52 of 1969. Annex National Folio of Republic of Indonesia No. 2910), it is immediately considered important to reverify the boundaries of zones for prospecting by PERTAMINA which constitute the contractor working areas based on the Production Sharing Agreement.

Certified correct translation
of the original document:
13/9/99
NOR AZMAH SHEHIDAN
Hon. Asst. Secretary
Malaysian Translators Association
c/o Dewan Bahasa & Pustaka
P.O. Box 10803
50926 Kuala Lumpur.

Considers : 1. **Clause 4 line (1) Constitution of 1945;**

2. **Laws No. 4 Prp. of 1960 (National Folio of Republic of Indonesia No. 22 of 1960, Annex National Folio of Republic of Indonesia No. 1942);**

3. **Laws No. 44 Prp. of 1960 (National Folio of Republic of Indonesia No. 133 of 1960, Annex National Folio of Republic of Indonesia No. 2070);**

4. **Laws No. 19 of 1961 (National Folio of Republic of Indonesia No. 276 of 1961, Annex National Folio of Republic of Indonesia No. 2318);**

5. **Laws of Republic of Indonesia No. 2 of 1971 (National Folio of Republic of Indonesia No. 16 of 1971, Annex National Folio of Republic of Indonesia No. 2957);**

Coast line at high tide to the point S which is at tangent with the coast line at high tide and with the longitude East 96° 30'00"; thereon northward to the point T at coordinate 05° 18' 00" L.U., 96° 30' 00" B.T.; thereon northward to the initial point A.

2. The boundaries of zones for prospecting by PERTAMINA comprising of off-shore Bunju and Mahakam as working areas for JAPEX INDONESIA LTD. based on Production Sharing Agreement dated 6 October 1966 as per amendment, which has been endorsed by the authority *vide* letter from President of Cabinet ref. No. B-94/Pres-Kab/1/1967 dated 19 January 1967 – thereon refered to as working area – are as follows:

A. Off-shore zone of Bunju

Using the Greenwich Meridian system, starting from point A at meridian 04° 09' 30" L.U., 117° 32' 30" B.T. eastward to point B at meridian 04° 09' 30" L.U., 118° 17' 00" B.T.; thereon towards south-south west to point C at meridian 02° 42' 40" L.U., 117° 56° 55" B.T.; then towards south east to point D at meridian 02° 38' 40" L.U., 118° 00' 00" B.T.; then towards south east to point E at meridian 02° 00' 00" L.U., 118° 30' 20" B.T.; then westwards to point F at meridian 02° 00' 00" L.U., 117° 50' 00" B.T.; then towards north east to point G at meridian 02° 17' 50" L.U., 118° 04' 50" B.T.; then towards north west to point H at meridian 03° 13' 00" L.U.; 117° 17' 30" B.T.; then towards north east to point I at meridian 03° 34' 30" L.U., 117° 29' 30" B.T.; then towards north east to point J at meridian 03° 42' 40" L.U., 117° 48' 40" B.T.; then towards north west to point K at meridian 04° 02' 30" L.U., 117° 30' 20" B.T.; thereon towards north-north east to initial point A.

Bunju Island, Tarakan Island, other islands and landed areas are not included in the above-mentioned working areas.

……

The area of the above zone is ± 9280 sq. kilometers.

B. Off-shore zone of Mahakam

Using the Greenwich Meridian System, starting from point A which is at tangent with the coast line at high tide along East Kalimantan at Latitude south 00° 04' 50" towards south east to point B at meridian 00° 24' 40" L.S., 118° 03' 00" B.T.; then towards south west to point C at meridian 01° 33' 20" L.S., 117° 25' 20" B.T.; then towards north west to point D at meridian 01° 29' 00" L.S., 117° 17' 40" B.T.; then towards south west to point E at meridian 02° 15' 35" L.S., 116° 52' 00" B.T.; then towards north west to point F which is at tangent with the coast line at high tide.

Clause 29

The President's Ruling is effective from the date mentioned herein.

Issued at Djakarta

On 23rd June 1972

The President Republic of Indonesia

…………………………………

SOEHARTO

DJENDERAL T.N.I.

Certified True Copy by

Secretariat for Cabinet

Certified correct translation
of the original document

13/9/99

NOR AZMAH SITI IDAH
Hon. Asst. Secretary
Malaysian Translators Association
c/o Dewan Bahasa & Pustaka
P. O. Box 10803
50926 Kuala Lumpur.

Annex MM 115

LETTER FROM J. WALLS TO DIRECTOR OF LAND AND SURVEYS, KOTA KINABALU, AUGUST 2, 1973

LV/1619/3/93

2hb Ogos, 73

Pengarah Tanah dan Ukur,
Kota Kinabalu

Light Towers - Pu. Sipadan/ Ligitan

Your letter LSC.4316.12/59 dated 27th July 1973 on the above subject refers.

2. It is confirmed Light Towers are established on the above islands, Sipadan constructed and completed in July 1962 and Ligitan in July 1963. Correspondence with Resident, Tawau and District Officer, Semporna dating back to 1961 on their proposal was all copied to you at the time.

3. These are unwatched Light Towers (in other words, no lightkeepers) serviced at six monthly intervals (April/October yearly) and in continuous operation for coastal navigation.

J. WALLS

(J. WALLS)
b.p. PENGARAH LAUT

JW/CT

Annex MM 116

AFFIDAVIT OF PANGLIMA IMAM MALANG BIN PANGLIMA IMAM JAMLANG, JANUARY 23, 1975

DOCUMENT NO.1

AFFIDAVIT

I, Panglima Imam Malang bin Panglima Imam Jamlang make affirmation and say;

(1) I am a Malaysian of Bajau origin and reside at Kampung Umadal Selatan, Pulau Omadal, Semporna, Sabah. My age is 80 years old.

(2) My father, Panglima Imam Jamlang was the son of Olang Kaya Alimuddin whose father was Orang Kaya Alimuddin the son of Salingaya Bungsu.

(3) Salingaya Bungsu originated from Johore and I am in possession of a book written by Olang Kaya Alimuddin relating the story how Salingaya Bungsu came to the Sulu Islands, Phillipines. The said book was written in the Suluk Language. I can read Suluk script and I am able to read this book. This book was handed down to me by my father who received it from Panglima Saili. The book was handed down to Panglima Saili by his father Olang Kaya Alimuddin. Only the descendants of Olang Kaya Alimuddin have the right to be in possession of the book and no other. The book is attached herewith as Appendix B .

(4) Olang Kaya Alimuddin had three sons, namely, Panglima Saili, Panglima Kayang and Panglima Imam Jamlang, my father. Olang Kaya Alimuddin was one of the sons of Orang Kaya Alimuddin. The other sons of Orang Kaya Alimuddin were Olang Kaya Kalo'eng and Olang Kaya Apang.

(5) Orang Kaya Alimuddin, when Salib Zainal Gharib was chosen as the Sultan of Sulu, undertook to propogate Islam. He travelled throughout the islands of Suluk and to the islands north of Sabah. Orang Kaya Alimuddin settled down at Pulau Siasi in the Phillipines and died there. On his death the propagation of Islam was continued by his son Olang Kaya Alimuddin who travelled out of the Suluk Islands and settled down at Pulau Omadal. On the death of Olang Kaya Alimuddin he was succeeded by Olang Kaya Apang.

(6) Olang Kaya Apang had no issue and on his death, he was succeeded by his three nephews, Panglima Salil, Panglima Kayang and Panglima Imam Jamlang as the Chiefs of Pulau Omadal. They were not known as Olang Kaya.

(7) The title of "Olang Kaya" was succeeded by Ma'aluddin, the nephew of Olang Kaya Apang and he became the Chief of Kampung Kubang, Semporna. On the death of Olang Kaya Ma'aluddin he was succeeded by his younger brother Olang Kaya Sawaddin who was then succeeded by his nephew Olang Kaya Ma'aluddin.

(8) Panglima Guneh was related to our family, Panglima Guneh came from Kampung Kubang and settled down at Pulau Omadal. He married Jawilah, one of the descendants of Olang Kaya Alimuddin. One of the issues of Panglima Guneh was Panglima Abu Sari.

(9) I did pay homage to the Sultan of Sulu. He was Sultan Jamalul Kiram. As far as I know he wastthe last Sultan of Suluk. I paid homage at the Sultan's palace which was at Bakood, situated between Parang and Maimbung. The Sultan had another palace at Maimbung. I was then about 30 years old.

(10) To my knowledge Panglima Abu Sari did pay homage to the Sultan of Sulu. He did so annually. As gifts to the Sultan, Panglima Abu Sari brought with him turtle eggs, cuttle-fish, dried fish and the like. Panglima Abu Sari collected the turtle eggs at Pulau Sipadan. The right to collect turtle eggs at Pulau Sipadan was accordingly vested in Panglima Abu Sari by the Sultan of Sulu.

(11) When the British Government ruled Sabah, restriction was imposed to prevent the free flow of people from Sabah to the Suluk Islands and vice versa. Anyone found travelling to the Suluk Islands from Sabah would be arrested and imprisoned on his return. Panglima Abu Sari was arrested and imprisoned when he was found paying homage to the Sultan of Sulu.

(12) Maharaja Mahmud came from Pulau Danawan. One of his sons married one of the daughters of Panglima Abu Sari. On the marriage, Panglima Abu Sari vested the right to collect turtle eggs at Pulau Sipadan in

Maharaja Mahmud, who was allowed by Panglima Abu Sari to collect and retain half the amount of turtle eggs in one season. If the collection of turtle eggs in a year lasted for 80 days, Maharaja Mahmud was allowed to collect 40 days and Panglima Abu Sari would do the collection for 40 days.

(13) There was a dispute regarding the right to collect turtle eggs at Pulau Sipadan among the families residing at Pulau Danawan. In the dispute some of the residents of Pulau Danawan were killed. As a result Maharaja Mahmud, members of his family and his followers went to settle at Meluru, Sandakan. Though Maharaja Mahmud subsequently came back to Pulau Danawan and died there, some of his descendants and followers remained and settled down at Meluru.

(14) Panglima Uddang was the first Chief of Semporna. As he was responsible to develop Semporna, he was appointed as Chief by the British Government. Then Panglima

∠ alive

Abu Sari was still∠ When Panglima Abu Sari was imprisoned on the ground that he paid homage to the Sultan of Sulu, Panglima Uddang made representations for the release of Panglima Abu Sari to the British Government. Accordingly Panglima Abu Sari was released and in gratitude Panglima Abu Sari granted to Panglima Uddang the right to collect turtle eggs at Pulau Sipadan for five nights in a season. Maharaja Mahmud also granted Panglima Uddang the right to collect turtle eggs at Pulau Sipadan for five nights in a season.

(15) The Copper Plate, the photo of which is attached as Appendix A herewith is somewhat related to the book attached as Appendix . The Copper Plate has something to do with the History of Salingaya Bungsu. I cannot read the writing on the Copper Plate well because the writing on the Copper Plate is not clear. It is written in Suluk Script. I can read some part of the writing. I can read the words:-

"Tamat", "Ini Salsilah Awal Salingaya Bungsu".
"Salib Zainal Gharib".

Affirmed at Tawau
This 23 day, of January ,1975

Before me,

....
Magistrate K. T. JOSEPH. FJK.

COURT OF THE STIPENDIARY MAGISTRATE
TAWAU

Annex MM 117

AFFIDAVIT OF TILARAN HAJI ABDUL MAJID
BIN PANGLIMA ABU SARI,
JANUARY 23, 1975

[redacted]

AFFIDAVIT

I, Tilaran @ Haji Abdul Majid bin Panglima Abu Sari of Pulau Danawan make affirmation and say:-

(1) I am 30 years old. My grandfather was Panglima Guneh and my grandmother Jawilah a resident of Pulau Omadal. My grandfather came from Kampung Kubang and settled down at Pulau Omadal after his marriage to Jawilah. I append below the descendants of Panglima Abu Sari, my father.

(2) The title "Panglima" was conferred to a person who was the Chief of an area. My grandfather was the Chief of Pulau Omadal and therefore conferred the title of Panglima Guneh. My father was the Chief of Pulau Danawan and therefore was conferred the title of Panglima Abu Sari.

(3) Panglima Guneh the Chief of Pulau Omadal was the right hand man of the Sultan of Sulu outside the Suluk Islands. He paid homage to the Sultan. Likewise his son Panglima Abu Sari the Chief of Pulau Danawan also paid homage to the Sultan annually. When he paid homage to the Sultan he always brought with him gifts for the Sultan in the form of turtle eggs, cuttle fish, dried fish and the like. Turtle eggs was a delicacy and was the principal produce of that area. The Sultan of Sulu imposed on Panglima Abu Sari the responsibility to control the collection of turtle eggs from the area namely Pulau Sipadan.

(4) Pulau Siamil which was within the area of Pulau Danawan produced birds-nests and mainly coconut. The rights to collect birds nest was vested in Haji Mustapha.

(5) When Panglima Abu Sari was Chief of Pulau Danawan, the islands under his control and jurisdiction were Ligitan, Si-Amil, Kapalai and Sipadan. These were fishing grounds for the people in that area. Any outsider wishing to fish in the waters around these islands must seek the permission of Panglima Abu Sari.

(6) As stated above Panglima Abu Sari paid homage to the Sultan of Sulu annually. Because of this he was arrested and imprisoned by the British. There used to be a free flow of peoples from these areas to the Sulu Islands and vice versa. Later the British imposed restrictions but Panglima Abu Sari continued paying homage.

(7) Maharaja Mahmud came from Lahad Datu and settled down at Pulau Danawan where he married Salmah a relative of Panglima Abu Sari. His son Kanoh married Panglima Abu Sari's daughter Appek. Due to these relationship by marriage Panglima Abu Sari gave to Maharaja Mahmud 5 nights in a season to collect turtle eggs from Pulau Sipadan. On the death of Maharaja Mahmud his son Maharaja Anggai succeeded him and then Kanoh, Maharaja Mahajud, Maharaja Alukan in that order.

(8) Panglima Uddang was the first Chief of Semporna appointed by the British Government because of his role in developing Semporna. He had no rights originally to collect turtle eggs from Pulau Sipadan but because of his good deeds he was given 10 nights in a season by Panglima Abu Sari and Maharaja Mahmud. He secured the release of Panglima Abu Sari who was arrested by the British Government for paying homage to

the Sultan of Sulu which the British regarded as disroyal and rebellious. In addition to giving him the share of collecting turtle eggs Panglima Abu Sari adopted him as his son.

(9) The Sultan of Sulu presented a copper plate with Suluk inscriptions to Panglima Abu Sari. It is now in the custody of Panglima Nujum. It signified the symbol of authority of the Sultan of Sulu.

(10) This copper plate mentions the names of Salingaya Bungsu and Sultan Salib Zainal Gharib. Only the descendants of Panglima Abu Sari are in possession of this copper plate. Panglima Abu Sari mentioned the names of two Sultans of Sulu, Jamalul Kiram and Jamaluddin but not Salib Zainal Gharib.

(11) Pulau Sipadan derived its name from a person called Paran. The story as told from person to person was that the body of a deceased person was found on the shores of the said islands. That person was called Paran. They called the island Si Paran the prefix Si meaning colloquilly Mr. so and so. No one knows who he was or how he came to be there.

(12) Pulau Sipadan was originally covered with thick jungle until Panglima Abu Sari planted some coconut trees and some maize there. This was followed by his descendants. It was known that nobody except the descendants of Panglima Abu Sari and officers from the Marines Department visited the islands of Sipadan and Ligitan. Sometimes Bajau fishermen from Bangau-Bangau islands went to fish at Pulau Ligitan.

(13) I recalled an incident at Pulau Sipadan where the relative of Panglima Abu Sari while collecting turtle eggs was killed by the pirates from Phillipines Islands.

8/....

Affirmed at Tawau

This 23 day of January, 1975.

R.T.P. of TILARAN

Before me,

COURT OF THE STIPENDIARY MAGISTRATE

....
Magistrate K.T. JOSEPH, PJK.

DESCENDANTS OF PANGLIMA ABU SARI

Malaysian	Malaysian	Malaysian	Malaysian	Malaysian
Datai binte Nomeg	2. Hurairah	3. Tandong	4. Tarah binte Ibbu	5. Masih
Pg. Johan	Elaihi	Laimani	Masimpul	Jahilin
Ankay (f)	Kulmah (f)		Lapohan	Saddaini (f)
Mohd. Juni	Dunhati (f)		Limbutan	Anulling (f)
Pg. Banni	Turah (f)		Timbul @ Ahmad	Abuhaddin
Tahil			Hj. Tilaran	Nasariah (f)
Naimah (f)			Nunng	
Apoh (f)			Janjali	
Kawah				
Hairah (f)				
Pg. Nujum				

Malaysian	Malaysian	Malaysian	Malaysian	Malaysian
Hamsina binte Uhan	7. Kami	8. Mariam	9. Maimoh bte Gustoni	2 more wives unidentified.
Bilal Hassan (Kuhotong)	Nil	Nil	Nil	
Ayyam (f)				
Humting				
Nawalah				

Annex MM 118

AFFIDAVIT OF PANGLIMA NUJUM BIN PANGLIMA ABU SARI, JANUARY 24, 1975

DEPONENT NO. 3

AFFIDAVIT

I, Panglima Hujum bin Panglima Abu Sari blue identity card holder No. 00276812 residing at Pulau Danawan make affirmation and say:-

(1) I was born at Pulau Danawan about 80 years ago. I became the Chief of Pulau Danawan since before the second world war. I was appointed by the British Government. I am a fisherman. I also collect turtle eggs from Pulau Sipadan, a right inherited from my father.

(2) My father was Panglima Abu Sari the man referred to in Appendix C_1. He died before the second world war at Pulau Danawan. He was succeeded by his son Panglima Johan who in turn was succeeded by Panglima Banni. When Panglima Banni died I succeeded him.

(3) When the Japanese set up the fishing industry at Pulau Si-Amil, my father had already died.

(4) According to Appendix C_1 Panglima Abu Sari had a half share in one season to collect turtle eggs from Pulau Sipadan. This right devolved on his death to his son Panglima Johan, and on the latters' death to Panglima Banni and then to me. I now hold the right to collect the turtle eggs but I also give some shares to all my relatives. They cannot collect turtle eggs from Pulau Sipadan unless I give them permission to do so.

(5) Pulau Danawan, Pulau Sipadan and Pulau Ligitan are fishing grounds for the people in that area. Fishermen from Kampung Bangau-Bangau described as Bajau Laut people also fish around these islands. The Phillipinos occasionally fish in these waters but very rarely. The

Indonesians never fish in these waters.

(6) On Pulau Ligitan one can find rocks, wild grass and trees called bilang-bilang. It is not inhabited. It is used to dry fish.

(7) Pulau Sipadan is known for its turtle eggs. I have explored the island. I cultivate tapioca and maize and plant some coconut trees there. Sometimes I stay from 15 to 20 nights collecting turtle eggs. I have not travelled beyond Pulau Sipadan. The nearest island is Pulau Kapalai.

(8) I received the copper plate Appendix A from my father, Panglima Abu Sari. According to my father it is written in Suluk script and he asked me to keep it safely. It was given by Sultan of Sulu to his father Panglima Gunah. I never paid homage to the Sultan of Sulu.

(9) There is a well on the island dug by Pg. Johan and myself and a semi permanent wooden hut both of which provide fresh water and accommodation when we stayed for long nights to col[illegible] turtle eggs.

K3

Affirmed at Tawau

This 24 day of Janu[illegible]

R.T.P. of
PANGLIMA
NUJUM

Before me

K. Joseph

....
MAGISTRATE K.T. JOSEPH, PJK

Annex MM 119

AFFIDAVIT OF MAHARAJA ALUKAN BIN KANEH, JANUARY 24, 1975

AFFIDAVIT

I, Maharaja Alukan bin Kaneh blue identity card holder No. 0243204 of Sungai Baban, Pulau Bohen make affirmation and say:

(1) I was born in 1920. My father is Kaneh the son of Maharaja Mahmud referred to in Appendix C_1 as the person entitled to a half share in any one season in the collection of turtle eggs at Pulau Sipadan. My mother is Appet the daughter of Panglima Abu Sari referred to in Appendix C_1 as the other person entitled to the other half share in anyone season in the collection of turtle eggs at Pulau Sipadan. I have three other brothers namely Isim, Mahajud, and Alam. I am the only one surviving.

(2) My grandfather Maharaja Mahmud originated from Pulau Danawan. He married a member of Panglima Abu Sari's family and had five sons namely Omar, Abu, Kaneh, Anggai, Mohamad and four daughters namely Batang, Umak, Kamak and Ulat.

(3) It was customary when someone married the family of Panglima Abu Sari he was given the share to collect turtle eggs from Pulau Sipadan. Maharaja Mahmud was given half share in any one season by Panglima Abu Sari - Appendix C_2.

(4) When Maharaja Mahmud died his son Maharaja Anggai succeeded him to collect turtle eggs from Pulau Sipadan. The latter was succeeded by Kaneh who apparently was not accorded the title of Maharaja because he was not appointed as a Chief. When Kaneh died, my brother Maharaja Mahajud succeeded him. On the death of my brother I succeeded him. To day I hold the right to collect turtle eggs from Pulau Sipadan. My share was however diminuted by 5 night because my grandfather Maharaja Mahmud and Panglima Abu Sari the original predecessor-in-title gave away part of their respective half shares to Panglima Uddang the chief of Semporna whom they both respected. A document reaffirming this gift was executed by Panglima Najum bin Panglima Abu Sari and Kaneh bin Maharaja Mahmud in 1957 before the Native Chief of Semporna Datuk OKK Panglima Abdullah the son of the said Panglima Uddang. Appendix C_x

2/....

Affirmed at Tawau

This 3rd day of January 1975. M. Alakan

Before me,

COURT OF THE STIPENDIARY MAGISTRATE

....

Magistrate K. T. Joseph PJK

Annex MM 120

AFFIDAVIT OF DATUK PANGLIMA ABDULLAH BIN PANGLIMA UDDANG, JANUARY 25, 1975

AFFIDAVIT

I, Datuk Panglima Abdullah bin Panglima Uddang, of Syarikat Sri Semporna, Tawau make affirmation and say:

(1) I was born on 15th May, 1905 at Kampung Ayer, Semporna. I joined the Colonial Service as a District/Native Clerk in 1924. I was promoted as Native Chief, Semporna in 1928 and as District Chief, Semporna in 1937. My last appointment was Deputy Asst. District Officer, Semporna in 1950 until 1960 when I retired and became a businessman.

(2) I am the son of Panglima Uddang the first Native Chief of Semporna appointed by the Chartered Co. in 1889, The Governor at that time was Bach whose headquarters was at Labuan. My father had to travel to Labuan to receive his Letter of Appointment which is now in my possession. Appendix D . He was appointed Chief of Semporna because he was chosen by the people and was the most suitable person. In fact Semporna was developed by him with Setia Ibrahim Maharaja Asanti and Maharaja Lahad and their followers from Kubang.

(3) Semporna was originally known as Tongtalum in Bajau or Tanjong Hutan in Malay. The name was changed to Semporna because Panglima Uddang and his men developed the area and restored peace. At that time there were rebels against the colonial rule and there were factional clashes arising from the right to collect turtle eggs from Pulau Sipadan The jurisdiction of Panglima Uddang extended to all the kampongs in Semporna and included Pulau Danawan, Omadal, Tetagan and Pulau Sipadan. He visited these places once in two or three months. During my young days I used to accompany my father. I remember accompanying him to Pulau Sipadan where I collected turtle eggs there. They were in abundance.

(4) According to my father the exclusive right to collect turtle eggs from Pulau Sipadan was vested in Panglima Abu Sari and Maharaja Mahmud. During a dispute between them my father mediated and settled their dispute. In recognition of his services, this being one of them Panglima Abu Sari and

Maharaja Majmud each gave 5 nights of their share in the collection of turtle eggs from Pulau Sipadan to Panglima Uddang. I inherited this right from my father to this day i.e. 10 nights in any one season.

(5) Panglima Abu Sari and some other leaders were arrested by the British. My father made representations to the British and secured the release of Panglima Abu Sari. My father was given a share to collect turtle eggs. There were certain documents executed in respect of the rights to collect turtle eggs vested in Panglima Abu Sari and Maharaja Mahmud - Appendix C1. In 1957 Panglima Nujum bin Panglima Abu Sari and Kaneh bin Maharaja Mahmud executed a document before me as the Native Chief of Semporna to the effect firstly that Panglima Nujum is the rightful successor of Panglima Abu Sari and Kaneh the rightful successor of Maharaja Mahmud and secondly a re-affirmation by both Panglima Nujum and Kaneh that their fathers had each given 5 nights to Panglima Udang and his heirs. Appendix C3.

(6) Panglima Uddang was born in Kubang. He married my mother in Semporna. She came from Pulau Lugus in the Suluk Islands. She is still living.

(7) The Bajau race was formally known as Samma. I have seen the Suluk script relating to the origin of the Bajau race but I cannot read it. I know Imam Mahid was in possession of one of the old scripts. Datuk OKK Sakaran bin Dandai now the Minister of Youth Culture and Sports had translated the old script into Bahasa Malaysia. Appendix E.

(8) I do remember that there were reports of incursions by intruders from Phillipines on Pulau Sipadan. They went there to fish and to collect turtle eggs but were repelled by the villagers before the authorities arrived.

Affirmed at Tawau

This 25 day of January, 1975.

Before me,

....

Annex MM 121

ADMINISTRATIVE DIVISIONS PROCLAMATION, 1982 GOVERNMENT NOTIFICATION OF SABAH NO. 7 OF 1982

ADMINISTRATIVE DIVISIONS

PROCLAMATION, 1982

(G.N.S. No. 7 of 1982)

ADMINISTRATIVE DIVISIONS

To provide for the division of the State for the purposes of administration.

[*1st November*, 1954.]

Short title.

1. This Ordinance may be cited as the Administrative Divisions Ordinance.

Division of the State into divisions and districts.

2. (1) The Yang di-Pertua Negeri* may by proclamation† divide the State into divisions and such divisions into districts in such manner as may be convenient for the purposes of administration either by describing the boundaries of any such division or district or by reference to a map, and may assign names to any such division or district.

(2) If a question arises whether any place is or is not within any such division or district or such question does not appear to be determined by any proclamation made under subsection (1) or other evidence, it shall be referred to the Director of Lands and Surveys and a certificate under his hand shall be conclusive on the question and judicial notice shall be taken thereof.

Construction of written law.

3. Where a proclamation has been made under subsection (1) of section 2, the Chief Minister may declare‡ that in any written law then in force—

(*a*) any or every reference to any territorial division of the State shall be read and construed as a reference to any territorial division mentioned in such proclamation; and

(*b*) any or every reference to any administrative officer shall be read and construed as a reference to any other administrative officer,

and every such law shall be read and construed accordingly.

Amendment of Interpretation Ordinance, Cap. 63.

4. Subsection (1) of section 2 of the Interpretation Ordinance is amended:—

(*a*) by inserting immediately after the definition of the words "dependent Commonwealth territory" the following definition:—

" "district" means one of the districts into which the State is for the time being divided in accordance with the provisions of the Administrative Divisions Ordinance;"

Throughout the Ordinance "Yang di-Pertua Negeri" substituted for "Yang di-Pertua Negara" by virtue of Enactment No. 17 of 1976.

See Administrative Divisio[illegible]oclamation, 1982 at page 7 infra.

See G.N.S. 142/1954, G.N. [illegible]/1975.

(*b*) by deleting the definition of the words "District Officer" and inserting the following definition in the place thereof: –

" "District Officer" means the officer in charge of a district and includes an Assistant District Officer;" ;and

(*c*) by inserting immediately after the definition of the word "regulations" the following definitions: –

" "residency" means one of the residencies into which the State is for the time being divided in accordance with the provisions of the Administrative Divisions Ordinance;

" "Resident" means the officer in charge of a residency;".

Repeal. 5. (1) The definitions of "Resident" and "District Officer" appearing in the Ordinances set out in the Schedule are hereby repealed.

(2) The Yang di-Pertua Negeri may by order add to the Schedule.

SCHEDULE

(*Section 5*)

Cap. 30. The Criminal Procedure Code.*

Cap. 132. The Rural Government Ordinance.†

---

*Cap. 30 was repealed and replaced by Ordinance No. 4 of 1959. Ordinance No. 4 of 1959 was later repealed by Act A324 which extended to Sabah F.M.S. Cap. 6.

†Title has been changed to "Rural Administration Ordinance" – see S. 109(2)(*b*) of Ordinance No. 11 of 1961.

ADMINISTRATIVE DIVISIONS ORDINANCE

(Cap. 167)

ADMINISTRATIVE DIVISIONS PROCLAMATION, 1982

(Section 2)

(G.N.S. 7 of 1982)

(10*th June*, 1981.)

1. This proclamation may be cited as the Administrative Divisions Proclamation, 1982. Citation.

2. The State shall be divided into the divisions and distinguished by the titles set out in the first column of the Schedule to this Proclamation each comprising the districts set opposite such division in the second column of the Schedule and such districts shall consist of the areas delineated upon the plan signed by the Yang di-Pertua Negeri and deposited in Lands and Surveys Department as No. 99197300 and thereon distinguished by the colouring set out in the third column of the Schedule. Division of the State into divisions.

3. The Administrative Divisions Proclamation, 1978 is hereby revoked. Revocation. G.N. No. S 1 of 1979.

SCHEDULE

Division	*District*	*Distinguishing Colour*
West Coast	Kota Kinabalu	Hatched red
	Kota Belud	Hatched blue
	Ranau	Red wash
	Tuaran	Green wash
	Penampang	Blue wash
	Papar	Yellow wash
Kudat	Kudat	Red wash
	Kota Marudu	Blue wash
	Pitas	Yellow wash
Sandakan	Sandakan	Red wash
	Labuk and Sugut	Green wash
	Kinabatangan	Blue wash
Tawau	Tawau	Red wash
	Lahad Datu	Yellow wash
	Semporna	Green wash
	Kunak	Blue wash
Interior	Keningau	Green wash
	Tambunan	Hatched red
	Pensiangan	Hatched yellow
	Tenom	Blue wash
	Labuan	Hatched blue
	Beaufort	Hatched green
	Sipitang	Yellow wash
	Kuala Penyu	Red wash

Annex MM 122

SABAH HIGH COURT JUDGMENT, APRIL 28, 1995

MALAYSIA
IN THE HIGH COURT IN SABAH AND SARAWAK AT TAWAU
ORIGINATING MOTION NO. T(25) 6 OF 1994

HJ. ABDILLAH BIN HJ. ABDUL HAMID VS. DISTRICT OFFICER, SEMPORNA

IN OPEN COURT
THE 28TH DAY OF APRIL 1995

JUDGMENT

Hj. Abdillah bin Hj. Abdul Hamid ("the Applicant") is a native of Sabah. On December 7, 1994, he received a letter from the District Officer, Semporna ("the Respondent") ordering him to demolish his eight houses and if it is not done, the Respondent will do it at his costs. He was not heard before the decision to demolish was made and he is now challenging the demolition order. As to how the eight houses came to be built, this is what the Applicant says in his affidavit, viz.:-

> 6. The said houses were built by my late father, Hj. Abdul Hamid Bin Tilaran, well before I was born on 14.10.1952. The said houses were built on my father's hereditary land measuring approximately 2.5 acres in Sipadan Island. The said houses and land was inherited by me upon my father's death as evidenced by a Will made by my late father on 24.06.93. Annexed hereto is a copy of the aforesaid Will marked as exhibit "B".
>
> 7. The Minutes of a meeting held at the District Office, Semporna on 15.11.93 and attended by the relevant authorities confirmed my inheritance and ownership of the said houses and land. Annexed hereto is a copy of the said Minutes, which was confirmed correct by the Respondent, marked as exhibit "C".
>
> 8. The said houses originally consisted of one family house and six huts.
>
> 9. By letter dated 12.11.93 the Respondent requested me to renovate the said houses as the said houses were old and in bad condition. In reliance upon the Respondent's letter dated 12.11.93 I renovated the said houses at a cost of approximately RM150,000.00. Annexed hereto is a copy of the letter dated 12.11.93 marked as exhibit "D".

It was upon those assertions of the Applicant that I have just set out that I granted leave to apply for an order of certiorari. At the hearing of the motion, it was moved on behalf of the Respondent that the motion ought to be dismissed because the Applicant had misled the Court when the Applicant asserted that the houses were build even before his birth on October 14, 1952.

Hussein bin Muin, the acting Senior Wildlife Officer of Semporna, under whose jurisdiction Sipadan Island comes under, deposed that there was only one small wooden hut and that it was after 12.11.1993 that the Applicant demolished the hut and in its place build a house measuring 75 feet by 90 feet and built 7 other individual chalets as well. The present District Officer, Adnan Miassin, similarly deposed but he added that the hut was used by various people as a resting place while collecting turtle eggs. The Applicant did not reply and I think he cannot because that was the truth and the truth is further supported by the minutes, a nine-page document, the Applicant had produced and which I have only now gone into in detail.

The title of the minutes talks of the settlement or resolution of the problems relating to the hereditary right of collecting turtle eggs from Sipadan Island. Save for one paragraph which I will refer to shortly, the minutes talk only of the right to collect turtle eggs and the division of money which three dive operators of the island had agreed to pay in return for their agreeing not to collect the eggs. The paragraph that talks about the house and land is paragraph 5.6 and it says :-

> 5.6 KETETAPAN 6 : PEWARIS TANAH DAN RUMAH DIKARI PULAU SIPADAN
>
> HAJI ABDILLAH BIN HAJI ABDUL HAMID di syahkan oleh kedua-dua pihak khususnya ALUKAN BIN KANEH dan semua waris, sebagai PEWARIS kepada sebuah rumah dan kebun kelapa di Pulau Sipadan.
>
> Kebun kelapa di Pulau Sipadan adalah kepunyaan TILARAN BIN PANGLIMA ABU SARI dan HAJI ABDUL HAMID oleh kerana merekalah yang membangun tanah dan menanam kelapa di Pulau Sipadan. Apabila Tilaran meninggal dunia (26-6-1983), maka adalah di syahkan rumah dan kebun kelapa di Pulau Sipadan di warisi dan seterusnya di miliki oleh HAJI ABDILLAH BIN HAJI ABDUL HAMID.
>
> Oleh itu HAJI ABDILLAH BERHAK sebagai pemilik yang syah dan boleh membuat TUNTUTAN WARIS mengikut peraturan dan Undang-Undang Mahkamah Ketua Anak Negeri Daerah Semporna.

From the minutes, just reproduced, it would appear that they were talking in the meeting on the November 15, 1993, of only one house. That there was only one house at the relevant time can also be gathered from the following letter dated November 12, 1993, from the District Office to the Applicant, viz.:-

> **Per : Mengubah Suai Rumah Warisan Dikari Pulau Sipadan, Semporna.**
>
> **Dengan hormatnya saya merujuk surat tuan bertarikh 5/10/93 mengenai dengan perkara di atas.**
>
> **2. Sebagaimana say difahamkan bahawa bangunan yang telah didirikan oleh pihak tuan adálah merupakan sebagai 'rumah warisan' dan masa ini bangunan tersebut sudah agak lama/buruk, maka ianya haruslah diperbaiki dan diubahsuai demi memenuhi kehendak semasa. Pengubahsuaian ini adalah difikirkan begitu perlu memandangkan perkembangan pembangunan pelancongan yang sedang rancak dipulau tersebut. Tentulah perubahan ini dengan sendirinya juga akan memberikan suatu daya etarikan kepada setiap pelancong yang berkunjung ke pulau tersebut.**
>
> **3. Atas fakta-fakta diatas, maka saya tiada halangan atas daya usaha tuan untuk mengubahsuai bangunan tersebut, asalkan ianya tidak merosakan tumbu-tumbuhan dan perkembangan alam sekeliling di pulau tersebut.**

The letter which I have just reproduced also speaks of only one house. Therefore, it is a deliberate lie for the Applicant to have asserted, in paragraph 7 of his affidavit, that the minutes "confirmed my inheritance and ownership of the said houses". The minutes does nothing of that sort since it refers to only one house and in fact, the minutes say the Applicant could make his claim in the Native Court. It is also a lie for the Applicant to assert, in paragraph 9 of his affidavit, that the District Officer had requested him to renovate the "said houses" when the letter only speaks of one house. What was conveyed to me through the said affidavit assertions at the ex parte hearing was that all the houses were built before October 14, 1952 and that the Applicant's father had owned all of them whereas the truth, as set out earlier, is otherwise. What then is the legal position of an order being obtained, granting leave to apply for an order of certiorari, when the affidavit of the Applicant contains lies? The law is stated in *Dormeuil Freres SA v Nicolian International (Textiles) Ltd* [1988] 3 ALL ER 197, at p.199 that :

> **"It is a basic principle, applicable to all ex parte applications, that a plaintiff seeking ex parte relief must make full disclosure to the court of all facts which are material to the exercise of the court's discretion whether or not to grant the relief. If such disclosure is not made by the plaintiff, the court may discharge the ex parte injunction on that ground alone. But if, in the circumstances existing when the matter comes before the court inter partes, justice requires an order either continuing the ex parte injunction or the grant of a fresh injunction, such order can be made notwithstanding the earlier failure of the plaintiff to make full disclosure. Moreover, there is authority that, contrary to the law as it was originally laid down, there is no absolute right to have an ex parte order obtained without due disclosure set aside; there is a discretion in the court whether to do so or not."**

Mr. Sugumar Balakrishnan, counsel for the Applicant, did not even bother to reply to the submission of Mr. Athmat bin Hassan, counsel for the Respondent, that the Court had been misled. There had not been full disclosures by the Applicant in his affidavit. In fact, he had made assertions which he knew cannot be supported by the documents he produced but had nevertheless falsely asserted that those documents supported his assertions. On that ground I would set aside the order granting leave to apply for an order of certiorari which means that the substantive motion must fail since there is no longer any leave being granted to apply for an order of certiorari. The order staying the demolition is also lifted. There will be costs to the Respondent.

JUSTICE IAN H.C. CHIN

For Applicant : Mr. Sugumar Balakrishnan.
Solicitors : Messrs Sugumar & Company.

For Respondent : Mr. Athmat bin Hassan.
State Attorney-General Chambers,
Sabah.

Annex MM 123

PROTECTED AREAS ORDER 1997

PROTECTED AREAS AND PROTECTED PLACES ACT 1959

PROTECTED AREAS ORDER 1997

IN exercise of the powers conferred by section 4 of the Protected Areas and Protected Places Act 1959, the Minister makes the following order:

Act 298.

Citation.

1. This order may be cited as the Protected Areas Order 1997.

Protected areas.

2. The areas specified in the Schedule are declared to be protected areas.

SCHEDULE

(Paragraph 2)

Name of Area	Description of Area
1. Pulau Sipadan	All the land areas of Pulau Sipadan located off the coast of Semporna, in the District of Semporna, and the waters surrounding the island extending to the limit of 500 metres measured from the low-water line along the coast of the island, comprising an area of 5.163 km²

	located at Latitude N 4° 06' 44".20311; Longitude E 118° 37' 47".43069 in the Celebes Sea.
2. Pulau Ligitan	All the land areas of Pulau Ligitan, located off the coast of Semporna, in the District of Semporna, and the waters surrounding the island extending to the limit of 500 metres measured from the shoreline of the island during high tide, comprising an area of 1.105 km² located at Latitude N 4° 09' 51".90594; Longitude E 118° 52' 50".94644 in the Celebes Sea.

Made 24 September 1997

[KPKK(R) 802 Klt.12 (8); PN.(PU₂)2/VII.]

DR. MAHATHIR BIN MOHAMAD,
Minister of Home Affairs

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